



Questions from Alternatives Generation Workshop Session 1

1. How will DOE and DTSC coordinate in meeting the requirements of NEPA and CEQA?

DOE must comply with the National Environmental Policy Act and the DTSC must comply with the California Environmental Quality Act. Despite their similar names, the laws are not identical. Although the idea of preparing a joint Environmental Impact Statement (in compliance with NEPA)/Environmental Impact Report (in compliance with CEQA) is being considered, the final decision has not yet been made.

DTSC and DOE are attempting to coordinate as much as possible, in part to avoid any inadvertent conflicts between the two documents.

2. If it is decided that a joint EIS/EIR will be prepared, will that help avoid the potential for conflict between NEPA and CEQA?

It is possible that a EIS/EIR might help avoid any conflict. We will work to coordinate as much as possible to be efficient and reduce duplicative efforts.

3. How do you keep politics out of NEPA?

NEPA was passed by Congress to support objective decision making. Environmental documents written to comply with NEPA present the potential impacts of the range of reasonable alternatives in an objective manner. The intent is to address political and technical considerations within the NEPA document.

NEPA documents are written to support decision-makers in making decisions. Federal decision makers consider the analysis presented in a NEPA document along with other considerations when making their decisions. NEPA does not require agencies to choose the most environmentally beneficial option, nor does it dictate what else the decision maker should consider when making the final decision. The political implications, as well as other components will be considered in this decision making process as with most federal decisions of this magnitude.

4. Is this need to do an EIS a result of a court order?

Judge Conti ordered DOE to comply with NEPA and to prepare an EIS. That order is part of the rationale for preparing the EIS. The DOE management team at SSFL believes that the cleanup could have significant environmental impact, and accordingly, that preparing an EIS is the right thing to do.

A number of investigations have been conducted in recent years, resulting in much better information about the nature and extent of contamination. A thorough EIS, based on this new information, will provide the decision maker with the most recent data and analysis on which to base decisions about how to clean up the site.

5. Can you help us understand what words to use in developing the alternatives? How will we develop alternatives?

For an alternative to be fully evaluated in this EIS, it will need to be consistent with the intent of DOE's purpose and need for action. Because of the way that purpose and need is framed, each alternative will need to address contaminated soil and groundwater, how to remove structures, where to ship excavated materials, how to transport the materials to selected

disposal sites, and whether any additional actions are appropriate before transferring the property to the landowner. The June 7 session will help stakeholders discuss the options that might be available to DOE. The June 9 session will support stakeholders' efforts to design alternatives addressing each of the components that they would like to have DOE evaluate in the EIS.

6. If a conflict is found between the alternatives that will be evaluated in the EIS and the cleanup standards that were agreed to in the AOC, how will that conflict be resolved?

It is important in developing a NEPA document to evaluate the full range of alternatives. The criteria for evaluating the EIS alternatives have not yet been developed; DOE plans to develop the evaluation criteria in consultation with stakeholders in the coming months. We expect the criteria will include how effectively they will address the cleanup standards in the AOC, among other things.

7. If the full NEPA and CEQA process is not being followed, how do we get out of the AOCs?

DOE will comply with NEPA and DTSC will comply with CEQA as required by law. Neither DOE or DTSC see any inconsistency in being able to comply with NEPA/CEQA and the AOC.

8. What is the remedy for citizens if the full process is not followed?

DOE anticipates engaging stakeholders throughout the process of preparing the EIS. If you have suggestions for innovative ways to involve our stakeholders, please contact us. If you feel that you are not being heard or the NEPA process is not being followed, please let us know. You can send your comments and concerns to ETEC-Energy@emcbc.doe.gov.

9. Who will be the decision maker?

Typically a decision like this would be made by senior management in the Environmental Management program.

Political leadership in federal agencies changes over time, most predictably after presidential elections. If the NEPA documentation was complete and the decision was ready to be made today, in all likelihood the decision would be made by the Assistant Secretary for Environmental Management.

10. The AOC dictated clean-up to background. Was that decision, to cleanup to background, pre-decisional?

The negotiations that led up to the AOC provided a framework for cleanup. At the time, DOE was under an order from a federal judge to prepare an EIS. That situation has not changed. This EIS will provide the environmental documentation of the impacts associated with how to implement the AOC.

11. If a full analysis determines that the goal is not feasible what happens?

The analysis will evaluate how to accomplish the goal, not if the goal is good. The NEPA document will inform the decision maker in making a decision about how best to accomplish the goal.

12. Under NEPA, the information presented has to be about the science. How are you going to balance science in this?

The question is correct; NEPA requires objective analysis of a range of alternatives. DOE will give fair and equal consideration of all the alternatives that are included in the EIS. DOE will use the best available science to evaluate the alternatives considered.

13. Is there a conflict of federal supremacy laws?

In negotiation with the State of California regarding cleanup of Area IV at SSFL, DOE determined that it would be prudent for the federal government to subject itself to state jurisdiction by signing the AOC.

14. This area is rich in migratory birds, how will you handle?

In the information presented on May 15, 2012, DOE asked the presenters to discuss the Endangered Species Act among other laws. Many other federal laws will apply in addition to those presented, including the Migratory Bird Treaty Act. DOE will comply with all federal laws when preparing the EIS and implementing the cleanup.

15. What is the definition of feasibility and reasonableness? If the schedule cannot be met with the various alternatives will it be thrown out?

For the purposes of this EIS, feasibility and reasonableness will be defined and evaluated. Schedule considerations are analyzed and will be analyzed and discussed in the EIS.

16. Will DTSC consider renegotiating the AOC?

DTSC is not considering renegotiating the AOC