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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706

November 4, 2002

Ms. Runore C. Wycoff
Director, Environmental Restoration Division
National Nuclear Safety Security Administration
P. O. Box 98518
Las Vegas, NV 89193-8518

Re: Revision 4 of the Environmental Restoration and Program Integration Baseline

Dear Ms. Wycoff:

The Nevada Division of Environmental Protection Bureau of Federal Facilities (NDEP) staff reviewed the tasks outlined in the Nevada Environmental Management Program, Environmental Restoration Division, Project Life-Cycle Baselines, Revision No. 4, dated July 2002. With some exceptions, NDEP found the level of detail contained in Revision No. 4 of the Baselines sufficient to complete a detailed review and analysis required under the Federal Facility Agreement and Consent Order (FFACO).

Following are NDEP's general and specific comments. Our general comments focus on the National Nuclear Security Administration's Environmental Management (NNSA/NV) Fiscal Year 03 (FY03) budget and allocation process, in relation to planned expenditures contained in the above referenced Baseline document. NDEP's specific comments focus on individual Baseline summaries for both the Underground Test Area Project (UGTA) and the Soils Project.

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General Comments:

In reviewing the FY03 Congressional budget process for the Department of Energy's (DOE) Environmental Management Program (EM) there are issues of concern to NDEP. First of all, NDEP recognizes that the existing continuing resolution for FY03 reflects prior year spending amounts. NDEP assumes, moreover, that when a budget is adopted for FY03, funding amounts will be consistent with estimates contained in the reference baseline document as indicated below.

Baseline Program Areas	Baseline Estimates (in $1000s)
Underground Test Area (UGTA)	31,395
Industrial Sites	20,522
Off-sites	4,508
Program Integration	10,918
Agreement in Principle/Grants	6,938
Totals	**$74,281**

When Congress approves a new budget, NDEP's staff will evaluate any discrepancies in approved funding amounts (as allocated by DOE headquarters staff) over planned expenditures contained in the referenced Baseline document. It is important to recognize that funding levels presented in the Baseline document are predicated on meeting deadlines stipulated under the Federal Facilities Agreement and Consent Order (FFACO).

NDEP contends that the Baseline funding estimates constitute a minimum compliance budget. Accordingly, and without regard to DOE's somewhat convoluted budgeting process for FY03 -- as per the new accelerated cleanup reform account -- if funding allocations in FY03 fall significantly short of Baseline estimates and impact FFACO deadlines, NDEP will assume that a compliance budget has not been implemented. If such a situation occurs, NDEP will consider appropriate enforcement actions.

NDEP notes that, the referenced Baseline document fails to identify fund transfers from NNSA/NV, the "landlord", expended to support remediation of Industrial Sites on the Nevada Test Site (NTS). Since the Baseline is a comprehensive budget and planning document that defines the scope, schedule, and cost of correction actions conducted by DOE in Nevada (i.e., to meet compliance agreement deadlines), the document should disclose these funding allocations. NDEP will expect to see such disclosures in the next revision of the Baseline document.

Specific Comments:

Underground Test Area Project (UGTA) Life-Cycle Baseline, Revision No. 4, July 2002

NDEP staff reviewed the tasks outlined in the UGTA Life-Cycle Baseline referenced above. The level of detail contained in Revision No. 4 was insufficient to complete the review and analysis required under the FFACO.

Subsequent to the receipt of Revision No. 4 of the UGTA Baseline, NNSA/NV staff provided NDEP with a new detailed Work Breakdown Structure (WBS) and schedule for the UGTA Project that reflects the Revision No. 4 changes. In addition, NNSA/NV staff verbally informed us that the sections containing the details of the UGTA Project missing in Revision No.4 are unchanged from Revision No. 3 and that we should refer to Revision No. 3 for those sections. The combined information provided in Revision No. 4, Revision No. 3, and the new detailed WBS and schedule appears sufficient for us to conduct the required analysis. NNSA/NV needs to confirm, in writing, NDEP's understanding of how to review and evaluate the UGTA Revision No. 4.

Soils Project Life-Cycle Baseline, Revision No. 4, July 2002

Certain issues require further clarification concerning the Soils Project Baseline (Revision No. 4). For example, NDEP concurs that there are no national standards for residual radionuclide soil contamination and we agree that site-specific corrective action levels (CALs) will need to be determined for the Soil Project Corrective Action Units (CAUs). Since, the soils project is scheduled to re-start in fiscal year 2007, NDEP concurs that for current cost and schedule estimates a CAL of 1,000 picocuries per gram (pCi/g total transuranics) is appropriate. It is assumed by all that this CAL would result in a maximum affected dose of 25 mrem/yr or less for anticipated future land uses.

NDEP and DOE may need to revise these assumptions, however, if existing modeling parameters fail to produce the desired 25-mrem/yr-dose estimate for the specified land use for individual soils CAUs. In addition, NDEP requires written concurrence from the United States Air Force (headquarters, Secretarial level) on the assumed military land use scenarios for contaminated soils sites on the Nellis Range, (i.e., Nevada Test and Training Range). The referenced Baseline document should reflect these concerns.

The Soils Project Baseline indicates that limited characterization will be performed at soil sites on the Nevada Test Site (NTS) that are not included in Alternative 3 of the NTS EIS (i.e., soil CAUs located in designated future testing area). The stated reasoning for this assumption is cost effectiveness; the baseline should present more details to support this assumption.

In terms of maintaining institutional controls for soil sites where corrective actions are not anticipated, the baseline needs to present evidence and/or reference information that demonstrates DOE has complied with the withdrawal review requirements stipulated under the Federal Land Policy Management Act. In other words, can DOE stipulate it has the legal authority for maintaining control, in perpetuity, over the withdrawn public lands encompassing the NTS?

In a related matter, NDEP's understands that the NTS Site-Wide EIS did **not** evaluate alternatives for soil remediation levels and their consequences. This means that an interim or final decision that establishes different soil remediation levels for different soil sites would be considered a major federal action under the National Environmental Policy Act (NEPA). Accordingly, NDEP still contends that DOE needs to initiate a NEPA process to address alternative CALs for the respective soils sites.

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In addition, the same NEPA process should address alternative remediation strategies for the hydro nuclear CAU, as well as, the long-term stewardship (LTS) options for either relinquishing or maintaining intuitional controls over all Soils Sites.

If you have any questions please do not hesitate to contact me at 775-687-9388.

Sincerely,

Paul J. Liebendorfer, P.E.
Chief
Bureau of Federal Facilities

PJL/REN/JBW/cb

cc: Ken Hoar, Director, NNSA/ES&HD
Eric Shanholtz, Chief, DTRA
Patti Hall, NNSA/ERD
Frank Di Sanza, NNSA/WMD
Wayne Griffin, BN/DTRA
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