2437 Losee Road; North Las Vegas, NV 89030
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Nevada Test Site Community Advisory Board

Fax

To:	STEVE LIVINGSTON	From:	Earle Dixon (NTS CAB Tech. Advsr)
Fax:	202-863-7036	Pages:	5
Phone:	202-586-9260	Date:	12/20/00
Re:	Comments on *Draft Study – LTS* (10/00)	CC:	[Click here and type name]

☐ Urgent X For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Attached with this fax are four (4) pages of comments from the Nevada Test Site (NTS) Community Advisory Board (CAB) on the document entitled, "Long-Term Stewardship Study *DRAFT*," dated October 2000.

Frank E. Overbey Jr.
3001 Golf Links Drive
Las Vegas, NV 89134
Tel. (702) 254-4955

Nov. 22, 2000

Comments Re: Long-Term Stewardship Study - DRAFT - of October 2000

As stated in the first paragraph of Asst. Secretary Huntoon's opening letter (p. i - iv) the *Draft Study* is a document proposed " ... to comply with the terms of a settlement agreement between DOE, the Natural Resources Defense Council, and 38 other plaintiffs." and it "... is not a decision document, [and] it does not attempt to describe how DOE intends to address these issues except where decisions already have been made." Accordingly, said Study is considered to be a descriptive primer of the Long Term Stewardship (LTS) program which describes the nature of the challenges, as foreseen at the present time, to be resolved.

The chapter contents are detailed in the Table of Contents and described in paragraph 1.1 entitled "Organization of the *Draft Study*". In addition, a grey-shaded box on p.5 highlights a notice that the *Study* is not a decision document, and states, "The principal purposes of the *Draft Study* are to promote information exchange and to inform the decision making processes at the national level and at individual sites." And then follows Chapters 2 thru 10 which discuss the Complexities of Stewardship, provides salient definitions, anticipated stewardship activities, real-property management planning under the National Environment Policy Act, and DOE Orders, funding considerations and options, a recognition that change and re-evaluation will be on-going throughout LTS plans, programs, and activities. There are nine (9) related Appendices, and 27 explanatory Exhibits, an excellent List of Acronyms, and a six page Glossary of terms unique to the content of the *Study*.

The subject document is considered to be a very comprehensive summary of the multiple aspects of Long Terms Stewardship, and will serve as a useful resource for developing follow-on Site Specific Long Term Stewardship Plans, Funding Options and Activities. 43.1

43.1 – The Department appreciates this comment. Thank you.

The following comments are provided on the Draft DOE Document Entitled: *Long-Term Stewardship Study* dated October 24, 2000.

1.0 SPECIFIC COMMENTS

Page ii: Last sentence under ensuring reliable and sufficient funding.

"Funding will be an important component of the overall long-term stewardship strategy at each site." This is an understatement! What kind of meaningful stewardship program could be implemented without appropriate and sufficient funding? It is an absolute necessity to have long term reliable funding in place for any stewardship program to be effectiv

43.2

43.2 – The Department acknowledges this comment in a text box in Section 8.2 of the Study. The Department currently relies on the annual appropriations process to fund long-term stewardship. This is not likely to change in the near term. As noted in Section 8.1 of the Study, a separate Project Baseline Summary (PBS) for long-term stewardship at each site will help the Department improve its estimates of annual long-term stewardship funding requirements. Developing an alternative funding mechanism will require additional study and eventually Congressional action. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included: (1) current difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites; (2) whether the annual appropriations process is the most effective mechanism for funding long-term stewardship activities that may be needed for decades or centuries; and (3) circumstances under which DOE should consider funding external parties (e.g., local governments) to conduct long-term stewardship activities or oversight. This comment will be forwarded to the Executive Steering Committee for their consideration.

Page 1: What is Long-term Stewardship?

To have to resort to the use of foreign words, in this case Latin no less, in defining Stewardship is rather ironic and almost humorous! "*inter alia*" which is equivalent to saying: among other things! It is difficult enough trying to understand and grasp the concepts presented in this document without having to resort to the use of non-English words. Can't simple language be employed or is the concept of Stewardship so foreign to DOE that they must employ the use of non-English words to convey ideas?

43.3

43.3 – This term is a direct quote from the Settlement Agreement.

Pages iv, 3 and 4

On pages iv and 4 it is indicated that the public comment period is 45 days from Notice of Availability in the Federal Register, while on page 3 in Exhibit 1-2. it is indicated that this comment period is 60 days. With a document providing details regarding the implementation of a very intricate and complicated Long-term Stewardship program that will extend for multiple generations into the future, it's credibility is weakened when something as simple as the public comment period is unclear and inconsistent, with the proverbial right hand not knowing what the left hand is doing!

43.4

43.4 – The reference to 60 days was an error in the pre-publication version of the Draft Study that was corrected in the Final Study.

Pages iii, 2, 3 and Appendix A

The acronym PEIS is present on several pages but is never defined. It appears that effort is being made to avoid any discussion of the term PEIS and how it is related to this particular document. Also the document presented in Exhibit 1-1. Entitled: ***Long-term Stewardship Study for PEIS Settlement Agreement Draft, 2000***; Is that this report? A visit to the referenced Web site implies that they are one in the same report. If, in fact, they are the same document, why are the titles different and couldn't it be explicitly stated in Exhibit 1-1. that this is that document?

43.5

43.5 – The Study now uses the acronym "WM PEIS," which is defined in the List of Acronyms.

Pages 12/14

Section 151(b) of the NWPA indicates that DOE has the option not to accept certain privately owned waste sites. This seems to permit numerous parallel universes for waste sites with different entities responsible for their oversight! If the private owner refuses to invest in the necessary long-term stewardship or simply no longer exists, do these sites fall by the wayside or, after some legal exercises, would they be placed under DOE oversight?

43.6

43.6 – This comment is acknowledged in a text box in Section 6.2 of the Study. Section 6.2 of the Study recognizes the many issues, public concerns, and uncertainties associated with ensuring the continued provision of long-term stewardship after property transfers. The Department's Long-term Stewardship Working Group recently identified the issue of how DOE will ensure adequate protection of human health and the environment at sites transferred to the private sector as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This comment will be provided to the Executive Steering Committee for their consideration. In addition, as noted in Section 3.1 of the Study, section 151(b) of the Nuclear Waste Policy Act allows the transfer of certain NRC licensed sites to DOE but does not require DOE to accept them.

Page 10

The caption indicates 21 sites, but only 20 are listed. The Nevada Test Site is missing from the NNSA list.

43.7

43.7 – NTS was inadvertently omitted from the pre-publication version of the Draft Study and is now included in the list.

2.0 GENERAL COMMENTS

1. Although numerous federal, state, tribal, and private entities may be responsible for the long-term stewardship of specific waste sites, it is not clear after review of this document if there will be a single oversight agency which monitors compliance and comprehensively tracks ongoing long-term stewardship activities at all such waste sites no matter whose responsibility they may

43.8

43.8 – The Department acknowledges this comment in a text box in Section 4.2 of the Study. The Department's Long-term Stewardship Working Group recently identified the need for a corporate vision for long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. The corporate vision includes the appropriate organizational structure for long-term stewardship within the Department. The Department also recognizes that it is important to define long-term stewardship roles and responsibilities both within DOE and between DOE and other entities, including other federal agencies, states, Tribes, and regional governments. The Executive Steering Committee is developing a Strategic Plan for long-term stewardship; part of that effort will include identifying roles and responsibilities within DOE. The commenters expressed varied opinions on the appropriate balance between federal vs. non-federal leadership, and between a strong central organization vs. independent field organizations. The Department notes that a balance that may work well for one site may not work well for other sites.

ultimately become. Will this be the role of the DOE Office of Long-term Stewardship? If waste sites requiring a long-term stewardship program are dispersed among multiple government and private entities, what control mechanisms are planned to assure that the very site-specific long-term stewardship procedures and responsibilities are maintained and properly followed over multigenerational time intervals?

2. With regards to information management (Chapter 7) there is discussion of permanent markers that will last as long as "practicable", and retention of various data, documents, maps, etc. for very long time periods. However, there is no discussion of the concept to periodically assess the physical integrity of all such items as well as "current technologies" of the time to revitalize all such important materials. I don't think this has to be viewed as a one chance activity after which we must live with what we got and simply try to maintain critical information for as long as possible in its present form.

43.9 – The Department acknowledges this comment in a text box in Section 10.2 of the Study. The Department agrees that remedies may need to be reassessed periodically in light of changing circumstances and information. Section 10.2 of the Study includes a discussion of these points.

3.0 EDITORIAL COMMENTS

Page 21

The heading, Exhibit 3-3. (continued), should appear at the top of page 2

43.10 – The text has been changed to reflect this comment.

Appendix B Page B-3

The heading, Exhibit B-1..... Should be moved to top of page B-4.

43.11 – This was corrected.

Appendix B Page B-6 through B-10

The heading, Exhibit B-2. (continued), should appear at the top of each of pages B-6 through B-10.

43.12 – This was corrected.

Appendix B Page B-10

To be consistent with other entries in Exhibit B-2., this should read: 19. State and Tribal Working Group (STGWG), *Closure for the Seventh Generation*. February 1999.

43.13 – The text has been altered to reflect this comment.

Appendix B Page B-12

The heading, Exhibit B-3. (continued), should appear at the top of page B-12.

43.14 – This was corrected.

Appendix E Page E-1/E-2

Page E-2 not numbered; Exhibit should be referred to as E-1., not Exhibit 2; and last sentence on page E-1 should explicitly refer to Exhibit E-1.

43.15 – These were corrected.

Appendix F PageF-1/F-2

Page F-2 not numbered and last sentence on page F-1 should explicitly refer to Exhibit F-1.

43.16 – These were corrected.

MEMORANDUM

TO: Distribution

FROM: Cynthia Ortiz (*original signed by C. T. Ortiz*)

DATE: December 12, 2000

SUBJECT: Comments on Stewardship Reports

I have one main concern about the Nevada Test Site NV-related stewardship reports. That concern is that they lack specificity in identifying controlling legal and regulatory documents. For example, mention is made of DOE Orders in the text, but nowhere can a list be found of the actual applicable orders. The same applies to other governmental statutory and regulatory drivers. I do think some effort should be made to compile such a list of bibliographic and textual documentation in order to increase the credibility and legality of the final reports that are published. Some of this is done in the DOE Headquarters *Long-Term Stewardship Study Draft for Public Comment* dated October 2000. However, there is no indication of a legal citator or bibliographic citation list in that document either, but at least this headquarters version has made some attempt to include those references (such as, mentioning DOE Order 1230.2 *American Indian Tribal Government Policy* referenced on page D-1).

By no means should such citations be considered complete. In fact, it could be stated in the text that references in the text are as complete as possible at the time of publication and the Bibliography might be entitled as *Preliminary Bibliography*.

Merely mentioning web sites does not seem sufficient to me either in the long or the short run.

43.17

43.17 -- The Department acknowledges these comments in a text box in Section 4.1 of the Study. The specific mechanisms available for oversight and enforcement of long-term stewardship vary according to the applicable regulatory regime(s) and state laws on a site-specific basis. The Department has not developed a policy on potential alternative regulatory regimes at specific sites. These comments will be provided to the senior management Long-term Stewardship Executive Steering Committee for their consideration.The Department is currently drafting guidance for site-specific long-term stewardship plans and has begun to address the issue of long-term stewardship information management. These efforts will address records management and documentation.

The SHOSHONE-BANNOCK TRIBES

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PHONE (208) 238-3706
FAX# (208) 237-0797

CULTURAL RESOURCES
HERITAGE TRIBAL OFFICE (HETO)
email: heto@poky.srv.net

December 15, 2000

Mr. Steven Livingstone, Project Manager
U.S. Department of Energy
P.O. Box 45079
Washington, D.C. 200026-5079

RE: COMMENTS ON THE DRAFT LONG-TERM STEWARDSHIP STUDY

Dear Mr. Livingstone,

The Shoshone-Bannock Tribes appreciate the opportunity to provide technical comments to the Draft Long-Term Stewardship Study dated October 2000. We compliment DOE and its staff for the quality of work that is represented in this document. While recognizing the importance of Long-Term Stewardship and its impact on natural resources, the emphasis on planning for the uncertainties in coordination between the agency and other parties (including tribal nations) is important. 44.1

The decisions regarding the lands and resources considered in LTS efforts are extremely important to the Tribes and to the Fort Bridger Treaty of 1868. While DOE's Idaho National Engineering and Environmental Laboratory (INEEL) occupies the aboriginal homelands of the Tribes, DOE activities affect our ceded territories as well as our Reservation lands. This is also true in respect to national decisions from the Department of Energy; decisions that affect federally recognized Indian tribes, the treaties, and the federal fiduciary trust to Indian tribes.

Tribal Concerns to the Draft Study:

- Just as DOE sites have "site-specific" missions and goals, tribes are "tribe-specific"; each tribal group practicing its individual tradition, value, and cultural legacy. The Final Study may address this fact so not to infer that all tribal nations are the same. 44.2
- The Shoshone-Bannock people occupy the lands around DOE facilities, including INEEL, the Lowman site, and the Nevada site. All of these sites are within the aboriginal territories of the tribes and are equally important when considering the long-term scenarios affecting the tribal rights and, more importantly, the affects to the ecosystem and its environment. Because of these interests, it is important to seriously consider the land transfer affects to tribal rights and tribal treaties. 44.3
- Assistant Secretary of Energy Dr. Carolynn Huntoon's stated that the Draft Study is not considered a decision document, *"except where decision have been made"*. Does this mean that where decisions were made, the draft study is a decision document? 44.4
  Additionally, we are concerned how the draft study affects, or interfaces, with other *"site-specific"* documents that are decision documents. 44.5

44.1 – The Department acknowledges this comment in a text box in Section 3.2 of the Study. Existing laws and regulations, especially the CERCLA process that is used for many site cleanups, require public involvement in the activities and decisions that lead to the selection of a remedy (ROD), including the technical and economic feasibility of cleanup to unrestricted use. However, these laws and regulations do not clearly articulate the role of public involvement in the activities and decisions that follow the ROD. At the same time, the Department recognizes that the ultimate success of long-term stewardship depends on the active involvement of the affected parties, including local governments and Tribes. It is important for all parties to develop a workable approach for meaningful public involvement in the decisions that affect and manage long-term stewardship activities. The Study identifies this as an additional key challenge associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions. The Department's Long-term Stewardship Working Group also has identified the issue of under what circumstances DOE should consider funding of external parties as one of the most important issues that should be addressed by the Executive Steering Committee. Although the general issue of public involvement has been identified to the Executive Steering Committee, specifics of implementation (e.g., what external organizations should be involved, what should be provided by DOE, what mechanisms for public involvement should be used) have not been discussed and may be determined on a site-specific basis. We intend for the public participation process to allow for meaningful Tribal and public involvement.

44.2 – This comment is acknowledged in a text box in Section 9.1 of the Study. The Department does not suggest or infer that all Tribal nations are the same. Language has been added to the text box on the Role of Tribal Governments in Long-term Stewardship (Section 9.1 of the Study) to emphasize this point.

44.3 – This comment is acknowledged in a text box in Section 6.2 of the Study. Section 6.2 of the Study recognizes the many issues, public concerns, and uncertainties associated with ensuring the continued provision of long-term stewardship after property transfers. The Department's Long-term Stewardship Working Group recently identified the issue of how DOE will ensure adequate protection of human health and the environment at sites transferred to the private sector as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This comment will be provided to the Executive Steering Committee for their consideration. Section 6.2 of the Study states explicitly that Tribal treaty rights and the Federal Indian Trust responsibility are important factors for evaluating the potential for transferring real property from DOE control to another federal or non-federal entity.

44.4 – No. The Study reflects the decisions that have been made, it is not a decision document for those decisions.

44.5 – This comment focuses on site-specific issues. Where these issues have identified general issues for long-term stewardship, the Department has attempted to communicate these issues in both the Draft and Final Study. This comment has been forwarded to the Department's long-term stewardship representatives at the appropriate sites; however, the long-term stewardship study is not the appropriate document for addressing site-specific issues.

- Other opening remarks addressed public participation and tribal involvement in the LTS process. It's not clear in the Draft what options are identified to secure tribal involvement in the LTS and Institutional Controls effort. 44.6
- The Draft Study describes the complexity of LTS and the variables that may affect the LTS goals and efforts. While we appreciate this complexity, it's not clear about the definition of Long Term Stewardship and cleanup. The draft document refers to these two terms as being major components of the study but in order to fully understand future challenges to DOE we should understand these two terms. 44.7
- Furthermore, recognizing the fact that LTS and IC may be "site-specific", it's unclear how LTS and Institutional Controls affect other management documents at each site. Additional study could address the *site-specific* plans relative to *tribal site-specific roles*, particularly the plans being developed at the individual sites. 44.8
- DOE at Idaho, Colorado, and HQ must exercise their "trust responsibility" to the Shoshone-Bannock Tribes and other federally recognized Indian tribe by providing full disclosure (when practical, and not violating security risks) of activities that will directly affect tribes and their treaty rights on or near DOE facilities/sites. In particular when such activities adversely affect the lands, water, plants or animals found therein or activities relating to tribal interests and access. 44.9
- Consultation with tribes is an important component to DOE's assurance of interaction with tribes. 44.10

Technical review comments:

- Long-Term Stewardship measures should not be an alternative, or to reduce or infringe on DOE's responsibility to carry out a complete clean up to, first, treat and then remove the maximum amount of contamination as technologically feasible. 44.11
- DOE's long-term stewardship obligations should be higher at a given site if on-site waste treatment and disposal facilities are used instead of off-site facilities. 44.12
- We agree, "Long-term Stewardship responsibilities will pass from generation to generation." Therefore, it is important that our generation set forth the principles to assure that the natural resources will be preserved for the future generations. Efforts need to be taken to establish a balanced culture-based risk assessment and management process at INEEL, and other DOE sites, to fully protect and restore tribal, and historic, cultural resources and environmental health/wellness for all generations (present or future). 44.13
- The term "remediation" is often used synonymously with "cleanup", however it's not clear who will decide the issue regarding "what is acceptable levels of remediation/cleanup of DOE sites"? Furthermore what levels of cleanup will be considered the national standard. 44.14
- Present conditions of the sole source Snake River Plain Aquifer under the DOE's historical practice of Waste Disposal by well injections, solid/liquid waste burials, and pond discharges; as well as the atmospheric re-suspension/deposition of long-lived radionuclides and other industrial contaminants released by the operation of INEEL facilities have not addressed "monitoring and studying" with respect to the possible and subsequent cumulative contamination of the Fort Hall Indian Reservation and its people. Although this comment is site-specific to INEEL, it is important to analyze the specific issues at other DOE sites relative to potential plans toward implementing the engineered controls respective to tribal interests. 44.15
- The draft discusses four principles of Intergenerational Equity. Although these principles are important to integrate into the Long-Term Stewardship process, it is also important to assure that these principles are implemented according to its intent, spirit, and letter. 44.16

44.6 – See response to Comment 44.1.

44.7 – The Department acknowledges this comment in a text box in Section 2.1 of the Study. The Department agrees that the terms "cleanup," "end state," and "closure" are less than ideal. The term "cleanup" is a common word usage that can be confusing. To help clarify the limits of current cleanup technologies and the overall scope of long-term stewardship, the Department has added a text box to Chapter 2 of the Study that describes the limitations and challenges that preclude remediating many sites to levels that would permit unrestricted use; the types of residual hazards that will require long-term stewardship; the time frames that may be involved in long-term stewardship, and the activities that may be involved in long-term stewardship. The Report to Congress on Long-term Stewardship provides additional site-specific information on the projected scope of long-term stewardship. The Department also maintains a Web Site (http://lts.apps.em.doe.gov) that provides public access to numerous documents describing the scope and challenges associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified the issue of developing a consistent, consensus definition of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee.

44.8 – As noted in Section 4.2.2 of the Study, site-specific long-term stewardship plans are required by law for uranium mill tailings sites and must be approved by the Nuclear Regulatory Commission. The Department also requests the development of a site-specific long-term stewardship plan before accepting long-term stewardship responsibilities for any site. As the EM mission at a site is completed, current plans call for the EM program and the site landlord (if different from EM) to develop a long-term stewardship baseline for each site. The baseline will describe the scope of applicable long-term stewardship requirements, the technical activities and the projected schedule to meet these requirements, and expected costs. The Department acknowledges these comments in a text box in Section 4.2 of the Final Study and will consider the recommendations they provide in developing the guidance that will specify the format and content for site-specific long-term stewardship plans.

44.9 – This comment is acknowledged in a text box in Section 9.1 of the Study. The definition of "affected parties" in Chapter 1 of the Study was broadened to include regional concerns. Section 4.1 and Chapter 9 of the Study acknowledge the special government-to-government relationship between the federal government and Tribal governments. Chapter 9 of the Study also acknowledges the importance of ensuring that the federal Indian Trust Responsibilities and federal treaty obligations are met.

44.10 – See response to Comment 44.1.

44.11 – The decision to clean up to unrestricted use, or to meet other specific land use requirements, is made on a site-specific basis with input from regulators, stakeholders, and the public. It is both DOE and EPA policy that cleanup remedies should be consistent with the intended future use of the affected areas. Chapter 2 of the Study includes a new text box that provides a more formal statement on the scope of long-term stewardship and why it is required (i.e., the inability to achieve unrestricted use and the nature of residual hazards). The goal of long-term stewardship is to ensure continued protection of human health and the environment consistent with applicable requirements. The Department recognizes the many issues and public concerns associated with the uncertainties with planning for, documenting, and funding long-term stewardship throughout the Study and acknowledges this comment by including it in a text box in Section 3.2 of the Study.

44.12 – The Department acknowledges this comment in a text box in Section 8.1 of the Study. The Department agrees that more information is needed on the scope of future long-term stewardship activities and better life-cycle cost estimates are needed. The Study incorporates the cost estimates from the Report to Congress on Long-term Stewardship and discusses the basis for these estimates. Accurate cost estimates are critical for long-term stewardship, particularly for ensuring accountability for the technical scope of the program. The Report to Congress on Long-term Stewardship is only the first step in developing the necessary cost figures. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites. This comment will be forwarded to the Executive Steering Committee for their consideration.

44.13 – See response to Comment 44.9.

44.14 – Long-term stewardship planning (see Chapter 4 of the Study) and remedy selection decisions are done on a site-specific basis with input from regulators, stakeholders, and the public. As noted in Exhibit 3-1 of the Study, the criteria used to evaluate remedial alternatives include long-term effectiveness and cost-effectiveness. The long-term effectiveness of institutional controls is one of the criteria for evaluating long-term stewardship requirements during remedy selection that have been suggested in guidance developed by DOE, EPA, and the Department of Defense (DoD) and in recommendations forwarded to the Department (see Exhibits 3-2 and 3-3 in the Study). The Department also has identified the need to promote new science and technology development to help address the uncertainties associated with maintenance of institutional and engineered controls. The Department acknowledges the public concerns about long-term effectiveness in a text box in Section 3.2 of the Study. The issue of uniform or national standards for cleanup is beyond the scope of this Study because this document focuses on long-term stewardship.

44.15 – See response to Comment 44.9.

44.16 – The Department acknowledges this comment in a text box in Section 10.2 of the Study. Exhibit 9-1 of the Study includes inter-generational equity and responsibility as a DOE consideration in developing and implementing long-term stewardship.

- Institutional controls and engineered controls may be viewed as failures depending upon active remediation strategies. An intense review/study of the effectiveness of engineered controls versus institutional strategies needs to be fully understood. 44.17
- Although time frames to implement LTS may depend upon funding and the controls discussed in the draft, our generation should be focusing on future proposed plans and remedies while considering the funding mechanisms to complete true cleanup. 44.18
- We support STGWG's comments to this draft study. 44.19
- The draft discusses tribal and public awareness, however it should also discuss tribal and public evaluations at, and of, sites. We compliment DOE in its advisory groups, however more can be done to promote involvement of others not as fortunate to be on these groups. Tribal and public involvement should also be considered as a part of the final decision as well as through other processes. 44.20 44.21
- Funding and long-term implementation is crucial in this effort of cleanup. Serious considerations and active efforts should be made to pursue sufficient long-term funding. 44.22

Again, we appreciate the opportunity to provide technical comments to the Draft Study. These comments provided are a compilation of other comments that are on file with the Tribes. We await for written response to these comments. Should there be any questions or concerns feel free to contact me at (208) 478-3706 or at hefo@poky.srv.net.

Sincerely,

Diana K. Yupe
Tribal STGWG Representative

Cc: Port Hall Tribal Business Council
Tribal AIP Director Office
DOE American Indian Program Manager

44.17 – The Department acknowledges this comment in Section 5.3 of the Study. The Department believes that Section 5.3 of the Study appropriately discusses the difficulties and challenges associated with ensuring the long-term maintenance of institutional controls, including roles and responsibilities for enforcement. The determination of the type of institutional controls and enforcement of these controls (e.g., by DOE or external parties) will be determined on a site-specific basis as part of remedy selection and long-term stewardship planning and may change over time.

44.18 – The Department acknowledges this comment in a text box in Section 8.2 of the Study. As noted in Section 8.2 of the Study, developing an alternative funding mechanism will require additional study and eventually Congressional action. Section 8.2 of the Study also provides a summary of the recent study of Trust Funds by Resources for the Future. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included: (1) difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites; (2) whether the annual appropriations process is the most effective mechanism for funding long-term stewardship activities that may be needed for decades or centuries; and (3) circumstances under which DOE should consider funding external parties (e.g., local governments) to conduct long-term stewardship activities or oversight. This comment will be forwarded to the Executive Steering Committee for their consideration.

44.19 – Please see responses to comment letter 28.

44.20 – See response to Comment 44.1.

44.21 – See response to Comment 44.1.

44.22 – The Department acknowledges this comment in a text box in Section 8.2 of the Study. The Department currently relies on the annual appropriations process to fund long-term stewardship. This is not likely to change in the near term. As noted in Section 8.1 of the Study, a separate Project Baseline Summary (PBS) for long-term stewardship at each site will help the Department improve its estimates of annual long-term stewardship funding requirements. Developing an alternative funding mechanism will require additional study and eventually Congressional action. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included: (1) current difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites; (2) whether the annual appropriations process is the most effective mechanism for funding long-term stewardship activities that may be needed for decades or centuries; and (3) circumstances under which DOE should consider funding external parties (e.g., local governments) to conduct long-term stewardship activities or oversight. This comment will be forwarded to the Executive Steering Committee for their consideration.

Campbell, Kathleen

From: Mark Donham/Kristi Hanson [markkris@earthlink.net]
Sent: Monday, December 18, 2000 1:45 PM
To: Stephen.Livingstone@em.doe.gov
Subject: long term stewardship

Mr. Livingstone, These comments were timely sent but for some reason bounced. I didn't notice it until now, so I am resubmitting them. Please consider on the record for this proceeding. Thank you

Dear Mr. Livingstone,

These are the comments of the Regional Association of Concerned Environmentalists (RACE) and the Coalition for Nuclear Justice (CNJ) on the DOE's Long Term Stewardship Plan. RACE and CNJ are both grassroots environmental organizations from Southern Illinois and Western Kentucky which have members that live around and near to the Paducah Gaseous Diffusion Plant, and have been severely adversely affected by the pollution and contamination around the plant. We fashion our comments after those from the Tri-Valley CARES organization. 45.0

* THE HIGHEST PRIORITY SHOULD BE PLACED ON SELECTING REMEDIES THAT PROTECT THE LONG-TERM SAFETY AND HEALTH OF THE COMMUNITY AND OF THE ENVIRONMENT SURROUNDING THE DOE FACILITY. All aspects of establishing, maintaining and funding long-term stewardship activities should be considered during the remedy selection process that is part of active cleanup. Wherever possible, we prefer that DOE facilities are cleaned up to a level that allows unrestricted use and avoids the need for long-term stewardship. Where cleanup to such a level is not practical due to current technical constraints, we want commitments inserted into final remedy decision documents detailing the stewardship plan and funding.

In addition, DOE should provide an opportunity for the public to challenge cleanup choices if there is overwhelming concern in the community for the impacts of a cleanup technology, especially one that is experimental. 45.1

Long term stewardship should also include the residential neighborhoods around the facilities. For example, at Paducah, there are residences within close proximity to the facility which have been severely contaminated by the plant, and yet, there is little or no program or concern for cleaning up their property and providing for their security and quality of life. For example, long term stewardship should include funds for testing of private property, for compensation to families for lost property values and health problems, and other unforeseen problems caused by the contamination from the facility, such as problems in adulthood caused by childhood exposure to the contamination from the plant. 45.2

* DOE SHOULD DEVELOP A PROGRAM TO LOOK FOR SOLUTIONS THAT WOULD MINIMIZE OR ELIMINATE THE NEED FOR LONG-TERM STEWARDSHIP. We are aware that some contaminants will have to be "stored" in place or at the site for long periods of time. This may be true for many radionuclides and some chemicals, often when they are in the form of dense-non-aqueous phase liquids (DNAPLs). We also believe that once decisions are made to leave a contaminant in place, it is difficult to get funding to monitor it while simultaneously continuing research on how the contaminant could be safely treated. Still, developing a remedial treatment that destroys a chemical contaminant, for example, should remain a high priority, as it avoids the need for long-term stewardship measures. We propose that DOE form a dedicated program that keeps an eye towards the future, and continually looks for solutions to these problems. In short, DOE should continue to develop new and better remediation technologies for sites that are in the long-term stewardship mode, and then to move them back to active cleanup when it is technically feasible to do so.

At the Paducah site, there is serious long term earthquake threat. This serious seismic concern must be taken seriously for long term stewardship. Such storage of wastes, or wastes left in place, must be considered in worst-case scenarios as to what would occur under serious seismic activities. Not to consider this would be fool-hardy. 45.3

45.0 – Please see responses to comment letter 6.

45.1 – The Department acknowledges this comment in a text box in Section 3.2 of the Study. Existing laws and regulations, especially the CERCLA process that is used for many site cleanups, require public involvement in the activities and decisions that lead to the selection of a remedy (ROD), including the technical and economic feasibility of cleanup to unrestricted use. However, these laws and regulations do not clearly articulate the role of public involvement in the activities and decisions that follow the ROD. At the same time, the Department recognizes that the ultimate success of long-term stewardship depends on the active involvement of the affected parties, including local governments and Tribes. It is important for all parties to develop a workable approach for meaningful public involvement in the decisions that affect and manage long-term stewardship activities. The Study identifies this as an additional key challenge associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions. The Department's Long-term Stewardship Working Group also has identified the issue of under what circumstances DOE should consider funding of external parties as one of the most important issues that should be addressed by the Executive Steering Committee. Although the general issue of public involvement has been identified to the Executive Steering Committee, specifics of implementation (e.g., what external organizations should be involved, what should be provided by DOE, what mechanisms for public involvement should be used) have not been discussed and may be determined on a site-specific basis. We intend for the public participation process to allow for meaningful Tribal and public involvement.

45.2 – See response to Comment 45.1.

45.3 – This comment focuses on site-specific issues. Where these issues have identified general issues for long-term stewardship, the Department has attempted to communicate these issues in both the Draft and Final Study. The specific comments in this section have been forwarded to the Department's long-term stewardship representatives at the appropriate sites; however, the long-term stewardship study is not the appropriate document for addressing site-specific issues.

WE STRONGLY ADVISE THAT DOE DEVELOP A MECHANISM WHERE LOCAL COMMUNITIES WILL BE INVOLVED IN LONG-TERM STEWARDSHIP DECISIONS. This should include involvement in initial long-term stewardship activities and any changes to those activities that may occur as a result of re-evaluation or modification of the remedy. The community should also be involved in periodic reviews, such as the five-year review cycle under CERCLA (the Superfund law) to re-evaluate the effectiveness and performance of long term stewardship activities. Additionally, independent technical expertise should be provided to communities to assist them in wading through the many technical documents that form the basis for key decisions.

In addition, each of the major sites should complete their site-wide EISs in compliance with DOE's NEPA regulations. This should include long-term stewardship considerations. 45.4

* DEVELOP CONTINGENCY PLANS AT THE TIME CLEANUP DECISIONS ARE MADE. The National Academy of Sciences' National Research Council recommended that "DOE should plan for uncertainty and fallibility" of some aspects of the long-term stewardship program, including developing plans "to maximize follow-through on phased, iterative and adaptive long-term institutional management approaches at sites where contaminants remain." We believe that these plans should be developed concurrent with cleanup decisions, and should be periodically revisited.

* DEVELOP FIRM FUNDING COMMITMENTS FOR LONG-TERM STEWARDSHIP. Funding for stewardship activities must be adequate. When the final remedy is agreed upon at a site, full funding for stewardship activities should be defined, including the role of the parties who will manage the funding and the funding sources.

* PERIODICALLY RE-EVALUATE THE REMEDY. DOE (or subsequent federal managers) should implement a systematic process for re-evaluating and if needed, modifying existing LTS activities to ensure that developments in science, technology and performance are incorporated. This reevaluation should consider the following: changes in health standards associated with contaminants that are left in place, changes in technology that were not available at the time when initial cleanup decisions were made but if implemented would eliminate the need for long-term stewardship activities, and performance of the remedy in place. The community should be involved in these re-evaluations.

* A RELIABLE, UP-TO-DATE RECORD MANAGEMENT FACILITY ACCESSIBLE TO THE COMMUNITY IS REQUIRED. DOE must fully characterize, document, and disclose all environmental contamination at its sites in case failures occur. At a minimum, DOE needs to develop a record management system that will always be accessible at or near the location of the stewardship activities.

* DEVELOP POLICY AND REGULATIONS ON PROPERTY TRANSFERS. One of the more difficult aspects of this program is deciding how to handle property transfers and the obligations of DOE and the new owner after the transfer. We strongly advise that this be addressed as policy and specific regulation, which contains the premise that DOE is responsible for a site in perpetuity unless the new owner has altered the property (e.g., drills through a landfill), violated a legal deed restriction, or contaminates the environment.

* AVOID TRANSFERRING OR RELOCATING HAZARDOUS SUBSTANCES. This practice adds the complication of transportation and reclamation of the former site, while still maintaining the burden of long-term stewardship activities. We are also concerned that some locations with lax standards could become the dumping ground for many long-lived hazardous materials.

However, there must be a serious consideration given to seismic concerns when even considering onsite disposal for certain sites like Paducah. Transportation is not a good option, but, suffering the long term consequences of environmental releases of contaminants thru major seismic activities is a serious matter. 45.5

* WHEN CONTAMINANTS ARE LEFT IN PLACE, DOE SHOULD COMPENSATE LOCAL GOVERNMENTS. Compensation to fund protective equipment, emergency

45.4 – The Department acknowledges these comments in a text box in Section 4.1 of the Final Study. The specific mechanisms available for oversight and enforcement of long-term stewardship vary according to the applicable regulatory regime(s) and state laws on a site-specific basis. The Department has not developed a policy on potential alternative regulatory regimes at specific sites. These comments will be provided to the senior management Long-term Stewardship Executive Steering Committee for their consideration.

45.5 – Long-term stewardship planning (see Chapter 4 of the Study) and remedy selection decisions are done on a site-specific basis with input from regulators, stakeholders, and the public. As noted in Exhibit 3-1 of the Study, the criteria used to evaluate remedial alternatives include long-term effectiveness and cost-effectiveness. The long-term effectiveness of institutional controls is one of the criteria for evaluating long-term stewardship requirements during remedy selection that have been suggested in guidance developed by DOE, EPA, and the Department of Defense (DoD) and in recommendations forwarded to the Department (see Exhibits 3-2 and 3-3 in the Study). The Department also has identified the need to promote new science and technology development to help address the uncertainties associated with maintenance of institutional and engineered controls. The Department acknowledges the public concerns about long-term effectiveness in a text box in Section 3.2 of the Study. The issue of uniform or national standards for cleanup is beyond the scope of this Study because this document focuses on long-term stewardship. In addition, the Department agrees with the commenter's concerns about seismic and other catastrophic events that have a reasonable probability of causing remedy failures. Periodic assessments of the remedy are required by law and may result in a need to take further action at sites with physical limitations.

preparedness, and sophisticated record keeping should be available to all local governments where LTS activities fall under their jurisdiction.

Finally, communities in the Regions of Influence, the 50 miles circles around each facility, should be educated in the long term stewardship implications, risks, and hazards associated with these facilities. In addition, if there are long term off-site disposal and treatment activities, those sites should be fully informed about what wastes are coming from what facilities, when, and how, and they should be given input into this process.

Thank you for considering these comments.

Mark Donham
Kristi Henson
RACE
Coalition for Nuclear Justice
RR # 1, Box 306
Brookport, IL 62910
618-564-3367

45.6 45.6 – See response to Comment 45.1.

Campbell, Kathleen

From: Girod, Brenda
Sent: Friday, December 29, 2000 1:49 PM
To: Hegner, Bob
Cc: Campbell, Kathleen
Subject: FW: Comments on LTS draft

These comments just came in...

-----Original Message-----
From: McBaugh, Debra [mailto:Debra.McBaugh@DOH.WA.GOV]
Sent: Friday, December 29, 2000 1:45 PM
To: 'Steven.livingstone@em.doe.gov'
Cc: 'bgirod@icfconsulting.com'; Jaquish, Dick; Erickson, John (DOH); Danielson, Al; Van Verst, Scott; Albin, Lynn
Subject: Comments on LTS draft

Dear Mr. Livingstone:

As a state with one of the largest of the DOE facilities, Hanford, long-term stewardship is an issue of importance. Recognizing that immediate cleanup is the most crucial concern, determining how these facilities will effect future generations, how to address reuse of property and land, and how to keep, safely, the legacy land, materials, and waste before cleanup is extremely important. We therefore took the time to review the Draft Long-Term Stewardship Study. Unfortunately, due to many other tasks, we were not able to send our comments until now. We apologize and hope you will still consider them. With that, our first comment will be a welcome one. We found the document well done and quite complete. The few comments we have will, hopefully, be of a constructive nature. 46.1

We suggest the Conference of Radiation Control Program Directors (CRCPD) be included in the development of long-term stewardship policies and procedures. This national organization consists of members from all of the states' radiation control programs. It provides a forum for centralized communication among the states and between the states and the federal government. More than thirteen states have DOE-operated facilities, so the subject is of interest to them. At least two CRCPD committees deal with DOE decommissioning. 46.2

Some additional discussion would be helpful on the meaning of "unrestricted use". It is used frequently in the document. It appears to be used interchangeably with "rural residential" to describe complete cleanup, where people can live without restrictions. There are situations where rural residential land use may be acceptable, but a gravel pit or strip mining may not be. Unrestricted use means that regulators can walk away with no restrictions on any use of the land. It would be appropriate to address this item in more detail. 46.3

Because stewardship is complicated and many organizations want to be involved, public outreach programs are important. Often those who are farthest away from a site, and may not be as well informed, raise the largest concerns. It would be worth considering a layered approach where greater weight is given to inputs from those who live near or may be directly impacted by a remediated site. We recognize this may not be possible in all situations. 46.4

Our last comment involves institutional controls. Stewardship requires methods for assuring public health and safety throughout cleanup and after cleanup when residual hazardous materials are left in place. Often states and local governments will be the enforcing agencies. It is vital to form a cooperative relationship between DOE and state and local governments to address this issue. We encourage you to keep this in your plans for the future. 46.5

Thank you for the opportunity to comment on this document. Again, we

46.1 – The Department appreciates this comment. Thank you.

46.2 – The Department acknowledges this comment in a text box in Section 4.2.1 of the Study. As noted in Section 4.3 of the Study, it is current DOE policy that long-term stewardship responsibilities at sites with ongoing, non-EM missions will transfer to the site landlord organization when the EM cleanup mission is completed and several conditions are met. The Study in several sections notes existing guidance and guidance under development that address one or more aspects of long-term stewardship. In addition, the senior management Long-term Stewardship Executive Steering Committee has begun to develop a Strategic Plan for long-term stewardship. The Strategic Plan will be the basis for additional program planning documents, including any future policies, procedures, processes, mechanisms, and strategies. The Executive Steering Committee will provide recommendations for the resolution of specific issues, including paths forward and timetables, as appropriate. This comment will be forwarded to the Executive Steering Committee for their consideration.

46.3 – The Department attempted to clarify the meaning of "unrestricted use" versus residential use of the land in a footnote in Section 2.1 of the Study.

46.4 – The Department acknowledges this comment in a text box in Section 3.2 of the Study. Existing laws and regulations, especially the CERCLA process that is used for many site cleanups, require public involvement in the activities and decisions that lead to the selection of a remedy (ROD), including the technical and economic feasibility of cleanup to unrestricted use. However, these laws and regulations do not clearly articulate the role of public involvement in the activities and decisions that follow the ROD. At the same time, the Department recognizes that the ultimate success of long-term stewardship depends on the active involvement of the affected parties, including local governments and Tribes. It is important for all parties to develop a workable approach for meaningful public involvement in the decisions that affect and manage long-term stewardship activities. The Study identifies this as an additional key challenge associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions. The Department's Long-term Stewardship Working Group also has identified the issue of under what circumstances DOE should consider funding of external parties as one of the most important issues that should be addressed by the Executive Steering Committee. Although the general issue of public involvement has been identified to the Executive Steering Committee, specifics of implementation (e.g., what external organizations should be involved, what should be provided by DOE, what mechanisms for public involvement should be used) have not been discussed and may be determined on a site-specific basis. We intend for the public participation process to allow for meaningful Tribal and public involvement.

46.5 – The Department acknowledges this comment in Section 5.3 of the Study. The Department believes that Section 5.3 of the Study appropriately discusses the difficulties and challenges associated with ensuring the long-term maintenance of institutional controls, including roles and responsibilities for enforcement. The determination of the type of institutional controls and enforcement of these controls (e.g., by DOE or external parties) will be determined on a site-specific basis as part of remedy selection and long-term stewardship planning and may change over time.

apologize for the lateness of our comments. If you have any questions please do not hesitate to call me at 360-236-3251 or Richard Jaquish at 509-628-2804.

DMcB

Debra McBaugh, CHP, Manager
Environmental Radiation - Assessing radiation in the environment, ensuring public health
360-236-3251
FAX 360-236-2255

This message may be confidential. If you received it by mistake, please notify sender and delete the message. All messages to and from the Department of Health may be disclosed to the public.

1 MR. KIRSHENBERG: Actually, why don't you
2 leave that up because I think it's good to -- that last
3 slide -- some of the questions or the particular
4 comments that you're asking -- am I supposed to sit
5 there?
6 MR. CASEY: Yeah, please.
7 MR. WERNER: Or you can use this one, if you
8 prefer.
9 MR. KIRSHENBERG: I feel -- feel kind of
10 weird sitting with my back to all of you, I guess, so
11 I'll stand here and look at both sides. I -- I guess I
12 don't need this yet. I am going to want to address
13 those questions.
14 First, let me tell you who we are and who I
15 am. I'm the Executive Director of Energy Communities
16 Alliance, and we're the membership organization of the
17 local governments around Department of Energy
18 facilities.
19 And obviously, long-term stewardship is
20 critical to us just as the underlying issue, which is
21 really environmental cleanup is critical because one is
22 protection of human health and the environment, but,
23 too, after DOE's gone from a lot of these sites we are
24 the ones who are going to be left still there in those
25 communities. And where DOE has a continuing operation

1 we want to make sure that sites that are being
2 transferred out of ownership and being brought into the
3 local community remain protective or -- or are
4 protective of human health and the environment and the
5 sites -- and the -- the environmental contaminated
6 sites that are on-site, we want to make sure that they
7 are not posing a threat to the workers on the site or
8 the people who live around the sites. And those are
9 all real critical issues.
10 What -- whenever I talk about long-term
11 stewardship I like to think about where did we really
12 come from? And this goes into the study because I
13 think the study outlines very well the very complicated
14 issue of long-term stewardship. But to simplify it,
15 and I think the way that communities look at this, is
16 that it really came out of environmental cleanup.
17 The number one criteria which is spelled out
18 in here for environmental cleanup is really the
19 National -- under the National Contingency Plan is
20 protection of human health from the environment. About
21 five, six years ago, people thought when DOE said that
22 they were going to clean up all the sites that all the
23 sites were going to be cleaned up, which meant there's
24 going to be nothing left there when they're done.
25 And there was a big push from the Department

1 to get buy-in from the local community to say, okay,
2 let's look at future use of the site, let's, you know,
3 let's talk about, you know, our ability to clean up
4 because of, one, we only have a limited budget on the
5 cleanup, and two, there's only a certain amount of
6 technical feasibility that we can do in order to clean
7 up some of these sites as well.
8 And when we got down into that, there --
9 there were years and years of arguments between state
10 regulators, local governments, Tribal governments,
11 citizens' groups saying we want complete cleanup till
12 where we move to. Okay, we will accept risk-based
13 cleanup as long as we have protection of human health
14 from the environment for the long term. And that's
15 really where you get into this long-term stewardship
16 idea.
17 We had a meeting recently in Idaho of the
18 National Governors' Association, National Association
19 of Attorneys General, some Tribal representatives from
20 the State and Tribal Working Group. There were -- I
21 think the local SSAB from the INEL site, I think there
22 was one or two representatives. And then there was
23 ECA. And we talked about what are the issues around
24 environmental cleanup that we can all really agree
25 upon, and that was how to integrate and how -- how

1 long-term stewardship is going to work because if we
2 are going to support the idea that less cleanup is
3 going to happen, that -- that the Federal government is
4 not going to spend I forgot how many trillions of
5 dollars it was going to be to clean it up to background
6 levels, then we -- then long-term stewardship has to
7 work. And that's really where we come out, and that's
8 where, really, the importance of this type of report
9 comes out.
10 This report when we went through it -- by the
11 way, ECA, for the record, is going to submit specific
12 comments in writing. The local governments right now
13 around the sites have begun drafting something and have
14 sent something around to each other, and by December
15 15th, the deadline, we will submit the specific report
16 -- the specific comments.
17 One of the things that we want to make sure
18 is addressed in the comments, though, as well is
19 looking at the idea of permanence and making sure that
20 that is something that -- that's integrated very
21 clearly into the report. I think it is when it talks
22 about some of the issues, but I want to make sure
23 that's also highlighted as part of the national
24 contingency plan and those types of things.
25 We really support the ideas that are spelled

1 out. I think this is the first time I've seen in the
2 DOE document where it's spelled out all the different
3 laws that go into -- that are integrated into
4 environmental cleanup at the sites and how remedy
5 selection plays into that. So actually, I thought that
6 -- and ECA believes that that is very good.
7 I think it also allows people to realize the
8 issues and how important they are and how difficult
9 they are to resolve as far as long-term stewardship.
10 It lays them out -- it lays out all the issues, and as
11 you said, it's not a decision document so it doesn't
12 give us solutions, but I think that's what people are
13 looking for, the development of those solutions. I
14 think that's going to be critical. I guess those are
15 next steps in the process, so I think that's something
16 that we're going to need.
17 What it does do, it -- this is something, as
18 I said, that all the different groups that we work with
19 and the citizens have really rallied around in wanting
20 to make sure that this really works. And I think that
21 this is something that is critical for the Department,
22 and I think it's something that Dr. Huntoon has said is
23 critical for the Department to move forward with. And
24 I think people are relying upon long -- this idea of
25 developing a solution of long-term stewardship with

1 communities, and I think that's real important. I
2 think that's spelled out in here in how you're starting
3 to do that, and I think that's real good.
4 I guess, you know, the one thing that I want
5 to -- want to leave with this, because I do think this
6 report is -- is a good outline of issues, is the real
7 need for the next step. And I think the NDAA report
8 will spell out some of the specific issues, and I think
9 it -- if you look at this type of report with the, I
10 guess, the last -- I think the last iteration of it is
11 the "10-Year Report." Is that the last iteration? The
12 "2006 Report," then the "10-Year Report"? What's the
13 latest one? The "Paths to Closure Report"? Okay.
14 The latest version is the "Paths to Closure
15 Report" with the NDAA report. I think it will spell
16 out for the local communities around the sites really
17 what is going to happen at the end-state or what needs
18 to happen at the end-state. And I think with that I
19 think the Department will be able to continue to have
20 support for its environmental cleanup program. I think
21 without those types of things and without some
22 certainty that long-term stewardship or this work on
23 long-term stewardship, I think what you're going to see
24 is the possibility of a drop-off in support because
25 what we want to make sure is that there's protection of

Confederated Tribes and Bands
of the Yakama Indian Nation

Established by the
Treaty of June 9, 1855

December 27, 2000

Steven Livingstone
Project Manager
U.S. Department of Energy
P.O. Box 45079
Washington, D. C. 20026-5079

Dear Mr. Livingstone:

Thank you for the opportunity to review the Department of Energy's Long-Term Stewardship Study Draft dated October 2000. In general this study has identified many of the problems and issues that DOE faces in managing the legacy of radioactive and chemical wastes from its operations at sites across this nation. This document serves as a beginning set of references for defining long term stewardship activities DOE sites. This study also provides the basis for DOE to initiate development of guidance for long-term stewardship and an opportunity to commence direct discussions with the Yakama Nation on this issue. 49.1

Unfortunately the current approach that DOE has taken to limit cleanup and reduce engineered protection of buried wastes does not ensure adequate compliance and protection for future generations. The timeframes for ensuring adequate long-term stewardship ranges from a few centuries to well over thousands of years and planning for such should be phased to allow for emerging stewardship needs and remediation technologies to be developed. Limited cleanup is not stewardship. 49.2

Specific comments to the draft study are provided in the attachment to this letter. If you have any questions, please feel free to contact me.

Sincerely,

Russell Jim, Manager
Yakama Nation ER/WM Program

1 Attachment

cc: Duane Clark, Chair, RHW Committee
Carroll Palmer, Deputy Director, DNR
Keith Klein, Hanford Project Manager
Jim Werner, Director, Office LTS
Kevin Clarke, Indian Programs Mgr.

Post Office Box 151, Fort Road, Toppenish, WA 98948 (509) 865-5121

49.1 – The Department appreciates this comment. Thank you.

49.2 – The Department acknowledges this comment in Section 2.1 of the Study. The Department notes that the definition of long-term stewardship used in the Study is that which is stated explicitly in the Settlement Agreement. The Department agrees that long time frames may be involved, and has added a text box in Chapter 2 of the Study to help clarify that point. The Department's Long-term Stewardship Working Group recently identified the issue of developing a consistent, consensus definition of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. In addition, the Department notes that its cleanup decisions are in compliance with applicable laws and regulations and believes that it is and will continue to be in compliance with applicable laws and regulations during long-term stewardship. However, as noted in Chapter 10 of the Study, these and other laws and regulations may change over time, and the Department recognizes that long-term stewardship should be able to respond to any changing requirements.

Comments on USDOE Draft Long-Term Stewardship Study

Chapter 1. The Study needs a definition of Long-Term Stewardship that is more useful than the one in the 1998 Settlement Agreement. There is no time-frame mentioned in the current definition on p. 1 – as it now stands LTS has no real definition apart from the acts of "cleanup" or "closure" themselves. Most of this document assumes that LTS will be an institution over an extraordinarily deep geologic time period, but that is not at all reflected in the page 1 sidebar. There must be some indication in the definition that the standards for LTS required for DOE sites will probably not be the same as the stewardship mandates for closure under CERCLA, RCRA, UMTRCA, etc. 49.3

The phrase "completed or plans to complete 'cleanup'" assumes that "cleanup" has also been defined or characterized in a manner that is acceptable to all stakeholders. However, to date this has not been done. End states have not been fully examined or decided upon to the satisfaction of those to whom LTS will inevitably be charged, i.e., Tribes, states, local governments, etc. 49.4

The problem here is that the whole concept of LTS as it is discussed herein begins with certain assumptions that may or may not be true, and that has not undergone rigorous public scrutiny. Most prominently, the fundamental premise for LTS as defined in the Study is contained in its fourth sentence: *"Based on existing plans and agreements with regulators and affected parties, EM program cleanups will leave behind residual levels of radioactivity (e.g., buried waste) and other residual hazards at most sites."* 49.5

First, DOE does not have existing plans or agreements with all, or even most of the "affected parties" regarding cleanup standards. Some states have compliance agreements, but none of the affected Indian tribes have compliance agreements with any DOE sites (although the Yakama Nation has attempted to sign one). Second, the only document cited for the LTS premise is *Status Report on Paths to Closure,* DOE/EM-0526, March 2000. It would be extremely helpful to give a summary explanation in the Study of how the DOE arrived at the conclusion that large amounts of residual contamination will remain. Although it may be clear to EM, it is not entirely clear to most of the affected parties. The "plans and agreements" referred to in the LTS premise should be cited specifically in a footnote, for the record. 49.6

Chapter 3. Discussion of LTS and closeouts of remedial actions under CERCLA must include an analysis of how Natural Resource Damage Assessments fit into the scheme. Exhibit 3-2 is completely inaccurate because it does not address NRDA under "Operate and Maintain Remedy." Although NRDA has not been used by trustees extensively at DOE nuclear weapons complex sites, the statutory mandate is there for trustees to ensure that the remedial action chosen has mitigated impacts of contaminants upon natural resources. NRDA could potentially have an enormous effect on how LTS is implemented, and it is barely mentioned in the Study (in Chapter 9). 49.7

Chapter 5. DOE appears to have changed the EPA's regulatory LTS terms. "Active" controls are now "engineered," and only "passive" controls retain the "institutional" label. However, the relabeling does not change the fact that the weakness of controls like deed notices, 49.8

49.3 – The Department acknowledges this comment in Section 2.1 of the Study. The Department notes that the definition of long-term stewardship used in the Study is that which is stated explicitly in the Settlement Agreement. The Department agrees that long time frames may be involved, and has added a text box in Chapter 2 of the Study to help clarify that point. The Department's Long-term Stewardship Working Group recently identified the issue of developing a consistent, consensus definition of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. In addition, the Department is required to comply with the long-term stewardship requirements pursuant to existing laws (e.g., AEA, CERCLA, RCRA, UMTRCA); however, as noted in Chapter 10 of the Study, these and other laws and regulations may change over time, and the Department recognizes that long-term stewardship must be able to respond to any changing requirements.

49.4 – DOE has attempted to define what it means by cleanup and understands that others may prefer a different definition.

49.5 – The Department acknowledges this comment in a text box in Section 2.1 of the Study. The Department agrees that the terms "cleanup," "end state," and "closure" are less than ideal. The term "cleanup" is a common word usage that can be confusing. To help clarify the limits of current cleanup technologies and the overall scope of long-term stewardship, the Department has added a text box to Chapter 2 of the Study that describes the limitations and challenges that preclude remediating many sites to levels that would permit unrestricted use; the types of residual hazards that will require long-term stewardship; the time frames that may be involved in long-term stewardship, and the activities that may be involved in long-term stewardship. The Report to Congress on Long-term Stewardship provides additional site-specific information on the projected scope of long-term stewardship. The Department also maintains a Web Site (http://lts.apps.em.doe.gov) that provides public access to numerous documents describing the scope and challenges associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified the issue of developing a consistent, consensus definition of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. The specific language in question has been clarified to state: "Based on existing plans and agreements with regulators, with input from affected parties, ..." The Study also notes in several places the importance of ensuring that federal Indian Trust Responsibilities and federal treaty obligations consistent with the unique legal and political status of Tribes are met during LTS.

49.6 – The expectation that large amounts of residual hazards will remain after cleanup is complete is documented in several publications, including the 1996 Baseline Environmental Management Report, the 1998 Accelerating Cleanup: Paths to Closure, the 2000 Status Report on Paths to Closure, From Cleanup to Stewardship, and the 2001Report to Congress on Long-term Stewardship. These documents are based upon information provided by each DOE site and reflect site-specific cleanup decisions made at each site using required public involvement processes.

49.7 – NRDA considerations are discussed in Chapter 9 of the Study. The Department is concerned that a discussion of the special consideration of the CERCLA NRDA process at the suggested point in Chapter 3 might distract the reader from the main points discussed therein. In Chapter 9, DOE discusses the special case in which impacts to natural resources might be integrated into an environmental response action. Based on EM's "Policy on Integration of Natural Resource Concerns Into Response Actions" (see text box, Chapter 9, page 97) it is expected that a remedy that takes impacts to natural resources into account would be selected. Therefore, any O&M activity resulting from this special case of remedy selection would be expected to be incorporated into the Record of Decision for the action, and would become part of the long-term stewardship of the site. The O&M activity occurring as part of the LTS should, therefore, have the NRDA considerations associated with the selected remedies already "built-in."

deed restrictions, zoning and easements should have a major effect on the DOE's decision to convey property containing residual contamination to another government or a private party. The serious concerns that are raised in this chapter regarding such controls should be much more integrated into the discussion of "Post-Transfer Property Management" in Section 6.3. 49.8

Chapter 6. In the first sentence on p. 64, should be "Tribal nations have reserved legal rights to pursue certain activities..." 49.9

Discussion of Tribal treaty rights on p. 64 is incomplete and misleading, because it misses the point that once federal lands are conveyed into private hands, the treaty rights to hunt and gather foods and medicines could be extinguished. "Open and unclaimed lands" basically means "public lands" under federal court decisions; any property transfers from DOE to private entities will essentially violate the trust responsibility that the Study describes. Hanford, which is on Yakama ceded land, is entirely within this category. 49.10

Chapter 7. The "four major aspects" of information management fail to include two more critical factors: 5) *accuracy* and 6) *public trust in DOE information.* These have been serious issues with both the AEC and DOE for the entire life of the weapons complex Affected parties are still uncertain about whether they can rely on the information that DOE produces. All of this information identification, "quality control," preservation, and public access are not going to change the fact that most stakeholders do not trust the United States to tell the truth about contamination and its effects on human health and the environment. Any discussion of information should deal with whether the DOE will do as complete an assessment of contamination and its real or potential harm as possible before conducting remediation, closure and LTS functions. NRDA assessments may be critical in this analysis. Also, any DOE claim that "national security" is a legitimate excuse for withholding information is a relic of the Cold War and should be discarded immediately. 49.11 49.12

Chapter 8. There should be a discussion of natural resource damages liability under CERCLA as a factor in costs associated with remediation and/or LTS. An explanation of how NRDA damages are estimated would be helpful. 49.13

Chapter 10. Issues that should be included:

1. DOE may not be the proper institution to administer LTS. 49.14
2. Congressional legislation may be needed for LTS directives, either generally or for particular sites. 49.15
3. Ideas analyzed in the Resources For the Future (RFF) and National Research Council (NRC) studies on LTS are not really examined at all. 49.16

49.8 – The Department appreciates the commenter's suggestion to more fully integrate the two discussions. However, the Department believes that the discussion of uncertainties about the long-term effectiveness of institutional controls (Chapter 5) provides sufficient context for the discussion of post-transfer property management (Chapter 6).

49.9 – The text has been altered to reflect this comment.

49.10 – The Department acknowledges this comment in a text box and footnote in Section 6.2 of the Study. The Study also acknowledges that there is disagreement as to whether Treaty rights and Federal Trust Responsibilities apply to specific withdrawn land.

49.11 – The Department agrees that accuracy and public trust are important aspects of information management and has added bullets in Section 7.1 of the Study to note this.

49.12 – The Department recognizes public concerns about residual site hazards and has acknowledged this comment in a text box in Section 3.2 of the Study. Information on the nature of residual hazards and their potential adverse effects on health, welfare, and the environment should be appropriately available to the public. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions.

49.13 – DOE policy is to integrate natural resources concerns into resource actions, as noted in Section 9.1 of the Study.

49.14 – The Department acknowledges this comment in a text box in Section 4.2 of the Draft Study. The Study has included examples of successful efforts to assist individual sites in establishing these partnerships. Developing partnerships, however, is both difficult and time-consuming, and it may be years before partnerships become function smoothly. Potential options for managing long-term stewardship include a centralized agency to steward Federal sites. However, a detailed discussion of the advantages and disadvantages of such a centralized agency is beyond the scope of the Study, which is required to focus on DOE sites.

49.15 – The Department acknowledges these comments in a text box in Section 4.1 of the Final Study. The specific mechanisms available for oversight and enforcement of long-term stewardship vary according to the applicable regulatory regime(s) and state laws on a site-specific basis. The Department has not developed a policy on potential alternative regulatory regimes at specific sites. These comments will be provided to the senior management Long-term Stewardship Executive Steering Committee for their consideration.

49.16 – The Department believes that most of the key issues addressed in both studies are addressed in the Study, including such issues as the integration of long-term stewardship into ongoing DOE missions; institutional controls; information management; environmental monitoring; creating a stewardship mandate; the potential role of other federal agencies; uncertainties about the long-term effectiveness of engineered and institutional controls; "bigger-picture" factors such as land use changes around sites; contingency planning, and flexibility.

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Bob Taft, Governor
Maureen O'Connor, Lt. Governor
Christopher Jones, Director

December 15, 2000

Mr. Steve Livingstone
Project Manager
U.S. Department of Energy
P. O. Box 45097
Washington, DC 20026-5079

Dear Mr. Livingstone:

Thank you for the opportunity to review and comment on the Department of Energy's (DOE) Draft Long-Term Stewardship Study. As you know, Ohio has been an active participant in the discussion of Long Term Stewardship (LTS) at the national level. We also will have some of the first large sites that will move from cleanup to the LTS phase and, accordingly, this issue is critical to the long term protectiveness of the Department's sites in Ohio. We would like to provide the following comments based on our review of the document.

Comments of the Draft Long-term Stewardship Study

1. General Comment: This is a well written document encompassing the current situation of LTS, problems faced with it, and possible alternatives for how the LTS program can be managed. The manner in which the scoping comments were handled was excellent. The document has been significantly improved by the extensive interaction that has occurred with external stakeholder groups. DOE is to be commended for effective outreach in the LTS area. 50.1

2. General Comment: Ohio EPA has also been involved in the review of this document with both the National Governors Association and the State and Tribal Government Working Group. We would also like to support the comments submitted by both of these organizations. 50.2

3. General comment: Due to the quality of this draft and the importance of LTS, we urge DOE to make appropriate revisions and expeditiously finalize the report. While we are confident that the next administration will provide the necessary focus on this critical issue and will also receive considerable outside support for this effort, the transition process could result in a loss of momentum. Timely finalization of this report will assure that it serves as an effective building block for future efforts by the department. 50.3

4. Chapter 3: There is a real opportunity to include more LTS considerations in the remedy selection process. While the present process does contain some LTS considerations, many important LTS elements are omitted. Cleanup to unrestricted use would allow the avoidance of LTS costs and this should serve as the point of departure for the LTS evaluation. The clear inclusion of LTS considerations in the remedy selection process is an important factor in the acceptance of long term institutional controls. 50.4

5. 3.3 The "full life-cycle cost accounting" which is mentioned for the evaluation of each alternative by DOE is not an accurate account of future costs for LTS. The DOE definition of 50.5

50.1 – The Department appreciates this comment. Thank you.

50.2 – Please see responses to comment letter 19 and comment letter 28.

50.3 – The Study has been finalized.

50.4 – The Department agrees that site-specific long-term stewardship planning and decision documents should clearly identify problems, remedial objectives, and long-term stewardship implications to the extent feasible. Section 3.2 of the Study has been revised to emphasize this point. The Department acknowledges this comment in a text box in Section 3.2 of the Study. Chapter 4 of the Study discusses DOE's current policy requiring sites to conduct long-term stewardship planning.

50.5 – The Department acknowledges this comment in a text box in Section 8.1 of the Study. The Department agrees that more information is needed on the scope of future long-term stewardship activities and better life-cycle cost estimates are needed. The Study incorporates the cost estimates from the Report to Congress on Long-term Stewardship and will discuss the basis for these estimates. Accurate cost estimates are critical for long-term stewardship, particularly for ensuring accountability for the technical scope of the program. The Report to Congress on Long-term Stewardship is only the first step in developing the necessary cost figures. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites. This comment will be forwarded to the Executive Steering Committee for their consideration.

'life-cycle' currently only extends for 70 years. Many of these sites will remain under stewardship for much longer time periods. A new accounting method needs to be developed which can follow the costs of stewardship through the whole design life of the remedy.

6. Institutional Controls: It is clear that institutional controls are going to be an important component of the cleanup at many DOE sites where free release of the property is not possible. However, as the document describes, the historical use of these controls has been problematic. DOE, states, tribes and stakeholders will need to develop some new tools in this area if cleanups at these site are to remain protective into the future. This is also an area where it **would be helpful to have interaction with other federal agencies with similar long term responsibilities.** 50.6

7. Funding: Relying on annual Congressional appropriations to fund LTS is not adequate. A method which guarantees that the necessary funding will be available in the future is the only solution. Many remedies are being and will be based on the assumption that LTS will be performed. With annual appropriations, there may be years in which the LTS program does not receive the funding necessary to administer the stewardship plans. This could quite realistically cause the failure of a number of remedies, and in return no longer protect human health and the environment as required. 50.7

8. Sustainability: It is very important to recognize the fact that over time, LTS at sites will need to be reevaluated. Advances in technology as well as changes in contaminants could ultimately change remedies at sites. A timetable needs to be established as to how often sites undergoing LTS need to be reevaluated to ensure the best possible course of action for the site is being followed. 50.8

Thank you again for the opportunity to provide feedback. If you have any questions please contact us at (937) 285-6357.

Sincerely,

Thomas A. Winston, P.E.
Chief, Southwest District Office

and

Graham Mitchell
Chief, Office of Federal Facilities Oversight

cc: Christopher Jones, Director

TAW/GEM/br

50.6 – The Department acknowledges this comment in Section 5.3 of the Study. The Department believes that Section 5.3 of the Study appropriately discusses the difficulties and challenges associated with ensuring the long-term maintenance of institutional controls, including roles and responsibilities for enforcement. The determination of the type of institutional controls and enforcement of these controls (e.g., by DOE or external parties) will be determined on a site-specific basis as part of remedy selection and long-term stewardship planning and may change over time.

50.7 – The Department acknowledges this comment in a text box in Section 8.2 of the Study. As noted in Section 8.2 of the Study, developing an alternative funding mechanism will require additional study and eventually Congressional action. Section 8.2 of the Study also provides a summary of the recent study of Trust Funds by Resources for the Future. The Department's Long-term Stewardship Working Group recently identified funding of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. Specific funding issues identified by the Working Group included: (1) difficulties in determining long-term stewardship costs now and in the future because there is no consistent procedure for how long-term stewardship activities are budgeted for and reported among DOE sites; (2) whether the annual appropriations process is the most effective mechanism for funding long-term stewardship activities that may be needed for decades or centuries; and (3) circumstances under which DOE should consider funding external parties (e.g., local governments) to conduct long-term stewardship activities or oversight. This comment will be forwarded to the Executive Steering Committee for their consideration.

50.8 – The Department acknowledges this comment in a text box in Section 10.2 of the Study. The Department agrees that remedies may need to be reassessed periodically in light of changing circumstances and information. Section 10.2 of the Study includes a discussion of these points. Specific timetables for re-evaluating remedies need to be established on a site-specific basis.

UNITED STATES DEPARTMENT OF ENERGY
OFFICE OF ENVIRONMENTAL MANAGEMENT

PUBLIC HEARING ON
DRAFT LONG-TERM STEWARDSHIP STUDY

Forrestal Building
1000 Independence Avenue, S.W.
Room 1E-245
Washington, D.C.

Thursday, November 30, 2000

9:00 a.m.

DOE Representatives

JAMES D. WERNER
SEAN CASEY

Speakers

STEVE LIVINGSTONE
SETH KIRSHENBERG
SUSANNE SNYDER
TRISHA CHRISTOPHER
LIZ HOCKING

1 P R O C E E D I N G S

2 9:24 a.m.

3 MR. CASEY: Okay. Why don't we get started?

4 Thanks for coming. My name is Sean Casey.

5 I'll be your moderator for today.

6 Currently, we only have one person who is

7 here who has signed up to -- to make comments. We had

8 prior notice of two, so we're -- our -- we're --

9 understand somebody is -- is coming later this morning.

10 If anybody changes their mind and would like to make a

11 comment along the way, there's a sign-up sheet out

12 front or just catch my attention. I don't think

13 there's going to be a long line.

14 If you want to speak, there's a table up here

15 with a microphone that you're welcome to come up to.

16 If you'd rather stay where you are, I'd be glad to

17 bring you this microphone down. But because we're

18 transcribing and recording everything, please speak

19 into the microphone even though we're actually in a

20 fairly close proximity here. And also state your name

21 when you speak so that we can get it into the

22 transcript.

23 With that, let me turn it over to Jim, who's

24 going to walk you through hand-outs. If you don't have

25 these, those are out on the front table. When he's

1 through, we'll see if anybody else wants to speak.
2 Beyond that we have one person signed up, and we'll --
3 we'll take it from there.
4 Jim?
5 MR. WERNER: Thank you, Sean. Is this on
6 yet?
7 (Pause)
8 MR. WERNER: It's not working. And the only
9 reason we'd use it is so that we can record it so we
10 can meet our "Federal Register" notice requirements.
11 Oh, well. Does this one work?
12 (Pause)
13 MR. WERNER: Good morning. Most of the folks
14 here, I think, are very familiar with these issues, but
15 I think because there's a few people not, we're just
16 going to use the time to provide an introduction just -
17 - and an update for other people. Would people find it
18 useful to get an update on some of the issues? I see a
19 "yes." Okay. From some people, even though you're
20 familiar generally with the issues.
21 Well, I'm glad we've got a few familiar faces
22 and a few new ones. I -- I'd like to use the time to
23 provide not just an update, though, of the activity on
24 the report that we're talking about today but on other
25 activities that we're working on, primarily some of the

1 related activities that we're working on here in DOE
2 headquarters, particularly in Washington, not just the
3 Germantown.
4 But the point of today's meeting, just for
5 the record, is to provide an opportunity to provide
6 comment on a draft study that we have prepared. The
7 draft study we refer to is the National Study on Long-
8 Term Stewardship, or sometimes the PEIS study, is out
9 for public comment. It's been out since October 31st,
10 I believe, and the public comment period extends till
11 December 15th. We will have one other meeting that
12 we'll have concurrent with another national conference
13 that's going on and want this to be an evening session
14 out on the west coast on December 14th for folks who
15 are interested in that as well.
16 Let me talk, first of all, about where some
17 of this came from, for background for people who have
18 not heard it, and then talk about this study as well as
19 others.
20 As many of you know, I was -- when I first
21 came to DOE I was the Director of the Policy and Budget
22 Office here for five and a half years, and one of the
23 big projects we took on was to ask the question where
24 are we going? Why are we spending all this money? And
25 how much money are we going to spend? And what are we

1 going to buy when we're done spending all this money?
2 That was known as the Baseline Report, the Baseline
3 Environmental Management Report. And some of you were
4 involved in that. That was a -- an enormous effort
5 involving many dozens or hundreds of people. We
6 finally forced, I have to say, our field offices to
7 come up with technical baselines providing the scope,
8 schedule, and cost of their activities, and this was
9 the first time this was ever done for many, if not
10 most, of our field offices.
11 We actually did two of these baseline
12 analyses. One was published in 1995, the other
13 published in 1996, and that was the -- for the first
14 time we learned that the cost of the EM Program would
15 be about $200 billion.
16 But we learned a whole lot more, and I would
17 say more important things than just that $200 billion
18 number 'cause anybody who was involved in it, and some
19 of you -- a couple of you were, know that that 200
20 billion number will change depending on a lot of
21 variables, such as what's the -- the extent of cleanup,
22 how much do you spend on overhead, and how you define
23 the scope.
24 But one of the other important lessons we got
25 out of it is when we were done cleanup you're actually

1 not done cleanup. That is, when you're done cleanup
2 what you're going to have is a lot of sites with
3 residual contamination. In fact, most of you have seen
4 the map of the United States showing that we've got
5 over a hundred sites where there's going to be residual
6 contamination and waste left after cleanup.
7 So really, the question was what are you
8 buying and what are you going to do with product you've
9 bought? What you're going to buy is a lot of
10 contaminated sites. They're going to be -- hopefully,
11 what you've really bought is lower risk and lower cost,
12 and that helps you refine, well, why are you doing this
13 whole EM Program? You're doing it to reduce risk and
14 to reduce cost because you're not going to eliminate
15 the risk, you're going to -- or the hazard, you're
16 going to reduce it greatly to a level that you can use
17 the land afterwards.
18 So it helped refine for the first time what
19 the whole EM Program was about, and then it -- even
20 though the EM Program started in 1989, 1995 was really
21 the first time we got a sense of what we were really
22 buying for the EM Program.
23 Having spent three and a half years of my
24 life on that and five years as Policy Director, and we
25 -- many of us started to move on to the question of,

1 well, when we're done with the EM Program, what's going
2 to be left and how do we prepare for that? There's --
3 to the extent you can prepare for life after the EM
4 Program, hopefully you can do better in focusing the --
5 the EM Program of actually reducing cost and reducing
6 risk, which is hopefully what you're buying, not just
7 spending money for no reason.
8 But along the way we've now spent about $60
9 billion. And sometimes we've achieved palpable
10 results, sometimes we've not been able to measure them.
11 We have acknowledged, though, explicitly the need for
12 long-term stewardship, which is something that I think
13 some folks have not acknowledged explicitly. And that,
14 of course, helps us in getting the cleanup done because
15 a lot of the -- we find our stakeholders -- and perhaps
16 we'll hear a comment today about it -- local
17 governments, developers, state governments,
18 stakeholders are concerned that if DOE's doing cleanup
19 and it's actually not going to clean it up to
20 background, zero contamination then where is the
21 commitment, where is the -- the technical activities to
22 provide continued protection? Even if it's only $5000
23 a year, there's got to be some mechanism of checking
24 up, monitoring the sites. And to the extent DOE fails
25 to provide that assurance, then people are concerned

1 that you -- that they don't want you to leave anything
2 behind and they want you to clean it up to complete
3 background.
4 So we've been able to provide at least the
5 beginning of some assurance that there's going to be an
6 adequate, though very low-cost, program for long-term
7 stewardship so people will become more accepting of
8 remedies that don't necessarily leave an enormous
9 amount of contamination behind. 'Cause frankly, the
10 technology and the money just isn't there to eliminate
11 all the contamination in all the cases.
12 In 1999, our new Assistant Secretary, Carolyn
13 Huntoon identified this as one of her top priorities
14 for many of those above reasons and established our new
15 Office of Long-Term Stewardship. You know, the -- the
16 Congress has been very interested in this for many of
17 the same reasons local developers and stakeholders and
18 other people are interested because they want to make
19 sure that we can finish the EM Program in a cost-
20 effective way but make sure there's something there
21 after the EM Program.
22 A nd that the -- a lot of these results
23 were captured in a report by the National Resource
24 Council of the National Academy of Sciences, who raised
25 an air of skepticism that the effort is not yet

1 complete. And I think the Department has to
2 acknowledge that our effort is not yet complete but
3 we're at least working on it.
4 The NRC report that came out in August said
5 that it's not just something you do after cleanup, it
6 should be a pervasive concept you consider during a
7 cleanup process so that you consider what you're going
8 to do after a cleanup while you're designing a remedy.
9 And so you design some sort of sustainability in during
10 the design phase that the effectiveness of the initial
11 work, you know, is technically reliant on what comes --
12 what you plan to do afterwards. That is, if we're
13 going to spend $200 billion, unless you provide 10
14 million or whatever it is afterwards, 100 million, then
15 your initial investment will start to erode away and
16 your -- your -- your money will, you know, end up being
17 thrown out the window.
18 The -- the NRC said that they find it the
19 Department's current reliance, they called it
20 problematic, and they -- they listed a number of
21 reasons why the Department didn't yet have a reliable
22 program for long-term stewardship. Based on that, the
23 National Academy of Sciences provided some strategic
24 objectives that recognize the -- the uncertainty of all
25 this, the -- the need to plan for possible failure and

1 to respond to that with some sort of flexible program,
2 to having center structures. And that's a -- an area
3 they did not explore a lot, but in discussions with
4 them they recognize the need for contractors to having
5 incentives to reduce cost, not increase and inflate
6 costs, which may be going on out there. We --
7 concerned. I'm not going to get into all the strategic
8 objectives, but we're trying to respond to them in --
9 in our various activities right now.
10 Let me move to today's subject. Today's
11 subject is this particular study that came about as a
12 result of a lawsuit settlement that -- actually, the
13 lawsuit settlement originally began in June of 1989
14 when the Department at that time proposed both a -- a
15 new -- new construction of nuclear facilities, then
16 known as Complex 21 or Reconfiguration or the Yellow
17 Report. It went through different names. And also,
18 there is a -- a proposal then to undergo a -- what --
19 what was then a series of five-year plans to finish all
20 the cleanup.
21 And there was lawsuits filed at that time,
22 and the Department settled the lawsuit, initially
23 announcing its intent to do two -- Programmatic
24 Environmental Impact Statements in January, and finally
25 settling with the Justice Department of October of

1 1990. That -- that settlement agreement called for the
2 two programmatic environmental impact statements to be
3 done. Let me just talk about the one.
4 The one programmatic environmental impact
5 statement -- before 1993 when I came in the Department
6 had already spent $60 million on a paper document EIS.
7 And one of the first jobs I got as an employee here was
8 to try to wrestle that in -- under control. The
9 Department had been spending nearly $1 million a month
10 on this paper document trying to do risk assessments of
11 every single little site out in there in the field.
12 And it was spending money towards no specific end,
13 given that those local decisions were made locally by
14 local stakeholders and regulators and state regulators
15 in the PA.
16 We made the decision then to refocus the
17 programmatic environmental impact statement on waste
18 management. So this PEIS there referred to, it doesn't
19 have a title here because its title changed over time.
20 It was originally the Environmental Restoration Waste
21 Management PEIS. In '93 we decided to change its focus
22 to be the Waste Management Programmatic Environmental
23 Impact Statement. And of course, because of the
24 concurrence process, it took it till 1995 until it got
25 published in the "Federal Register," early '95. But we

1 finally officially change the scope of that PEIS.

2 Unfortunately, the plaintiffs disagreed with

3 that change, and when we published the final document

4 in 1998 -- '98, '97, they sued us because the scope was

5 too narrow. We had excluded too much of the

6 environmental restoration issues. And we began more

7 litigation. Else not detailed -- not bothering to get

8 into the details of all the litigation and back and

9 forth that followed, but we did finally settle it, and

10 this was one of the provisions of the settlement that

11 we -- we signed in December of 1998.

12 There were three provisions of the

13 settlement, and those provisions were very related

14 inextricably. This one required the Department to

15 provide a study on long-term stewardship. The second

16 provision of the settlement agreement required that we

17 created a -- a database called the Central Internet

18 Database -- specific parameters that were included in

19 that database, and that is now operational. And the

20 third element to the database was to provide a fund for

21 scientific and technical review, and that's called the

22 -- the Citizen Monitoring and Technical Assessment Fund

23 for $6 and a quarter million. It's administered

24 independently of the Department.

25 But the -- the point of the three elements

1 related to the point in contention in the lawsuit
2 settlement. In contention was whether or not there was
3 a major Federal action having a significant impact on
4 the Federal environment that -- in the human
5 environment involving environmental restoration. The
6 -- the Department contended that there wasn't a single
7 decision, that it was in fact numerous decisions made
8 at the local level. And so therefore, it wasn't
9 appropriate to spend more money on a PEIS. We -- we
10 claimed that; they claimed you had to do it.
11 The settlement agreement acknowledged that
12 while the decisions were made independently, there was
13 some interrelationship of those decisions that could
14 benefit from some sort of study, even though there
15 wasn't a major national Federal decision. The
16 settlement agreement addressed that by providing, first
17 of all, the database. For the first time ever, the
18 database will give an idea -- it does give an idea of
19 where the waste is, which we've never had before, and
20 where is it going. We've never had any kind of
21 accounting on how much waste we had and where it's
22 located and then where it was going to.
23 The -- the long-term stewardship study was
24 intended to address once the waste gets to where its
25 final disposition is, how do you deal with the waste

1 once it's there. And finally, the Citizen Monitoring
2 and Technical Assessment Fund then gives you some funds
3 that people can do independent studies. And that's
4 already starting to becoming available to people.
5 The PEIS study is not a NEPA document,
6 although we are following some NEPA procedures in -- in
7 the process. We're following NEPA procedures in
8 scoping pursuant to the DOE NEPA regulations. And for
9 the comment response period, we're following right now
10 the CEQ regulations. And these were all spelled out in
11 the settlement agreement. It was hard-fought
12 negotiation over a six -- 10-month period.
13 The -- the decision also -- it -- it was not
14 explicit but, I think, implicit was that it would not
15 address site-specific issues, so that's why we're --
16 you'll see in this draft study, hopefully, that it very
17 clearly is addressing the -- the national and
18 programmatic issues, not site-specific issues. We just
19 didn't want to go that same path that led us to spend,
20 you know, millions of dollars on the original PEIS. We
21 wanted to keep the cost of this down as low as
22 possible. I think we succeeded in doing that, but we -
23 - even if we don't do the site-specific issues, there's
24 a lot of useful national -- hopefully, people here will
25 agree that we've addressed the -- the national, cross-

1 cutting, institutional issues. It's not a NEPA
2 document, but we had to follow certain public
3 involvement procedures.
4 We hope to get this done -- first of all, the
5 public comment period, as I said, is over December
6 15th, and we hope to then get a final version of the
7 report through the concurrence process out before the
8 end of January, when there will be some changes in our
9 -- the management around here no matter what happens.
10 I won't get into the major topics. I just
11 wanted to introduce where we -- where we came from to
12 get here today. So that background tells you why we're
13 here today and what the whole background of the whole
14 study is.
15 I want to talk about other activities for a
16 moment before I get into the PEIS in a little more
17 detail -- this study because I think there's some
18 confusion about, first of all, this other major report
19 that's now being prepared.
20 There is another report that -- that's now
21 going through concurrence that doesn't involve public
22 comment in the same way the PEIS study did, although
23 there is some public comment involved. This one is
24 required by Congress. This -- this -- sometimes called
25 the NDAA report -- is required by the National Defense

1 Authorization Act report language. And they were
2 interested in, frankly, promoting the development of
3 technical baselines on a site-specific basis because
4 they -- they -- their sense was that there was no
5 "there" there, that their Department had been spending
6 money without a clear sense of where it was going. And
7 by forcing the Department really to develop technical
8 baselines, the Congressional staff thought that there
9 would be a -- a better sense of what the realistic goal
10 was in mind rather than just spending it towards an
11 unrealistic end point that wasn't technically
12 achievable of complete, you know, green-field cleanup.
13 So that's what we are involved in doing now.
14 We sent out a guidance package to the field
15 last December. We've been working with our field
16 offices and asked our field offices to -- to work with
17 their local stakeholders since then in getting that.
18 I'll be happy to answer questions about it, but suffice
19 it to say that it is, you know, a voluminous document
20 in that it essentially required each of our field
21 offices to submit the required data, and that's
22 compiled in a thick volume 2. And there's a relatively
23 thin summary, volume 1, that describes what's -- what
24 he -- the different field offices sent in.
25 So that we hope to have out in fact in a

1 matter of weeks publicly, although many have already
2 seen drafts of it through the local field offices who
3 sent that report out. But that is a totally different
4 effort involving site-specific information by contrast
5 with this one.
6 There's a whole series of other ones that I
7 probably can't describe, other activities that are
8 perhaps less involved, certainly less costly, that I
9 probably can't get into a lot of detail. But I think
10 we -- I can say in -- in -- in general that, you know,
11 these are things called for by, you know, the -- by our
12 management, by Congress, or through the analytical --
13 analytical work done by these other reports.
14 The first two you see, and I've already
15 mentioned the big PEIS study we're here to get comments
16 on today, and the report to Congress. We've also
17 sponsored some independent analysis through the -- the
18 Environmental Law Institute and a local government
19 group called the Energy Communities Alliance to ask
20 what is the role of local governments since right now
21 states and Federal agencies are the ones regulating
22 cleanup. But after the cleanup is done, the people
23 responsible for land-use planning are often local
24 governments. But how do you provide for some
25 reasonable integration of local governments without

1 creating too much problem with local governments, you
2 know, who don't have a legal role in the cleanup
3 process? So that, I think, case study at least helps
4 us address some of those issues.
5 And in addition, we're having an independent
6 report done by Resources for the Future, who has a -- a
7 lot of background on government financing options
8 because right now the -- one of the big issues that I
9 think we'll -- we've heard through this PEIS study is
10 concern about financing. You know, the local people,
11 the states, the stakeholders, the Indian Tribes, other
12 Federal agencies, frankly, have given us very strong
13 feedback that their number one concern, perhaps, or one
14 of their top two or three concerns is that they're
15 concerned about continued funding for long-term
16 stewardship. How do you ensure funding? And they
17 don't have confidence that the annual budget process
18 will provide, you know, adequate confidence in funding
19 for the next 20, 30, much less more years than that.
20 So that study should be out, in fact, in just a few
21 weeks if it's not out -- sooner.
22 There's a number of internal guidance
23 activities, and let me just say that we're acutely
24 aware that we cannot legally go forward with certain
25 decisions without following the necessary NEPA

1 requirements, but our guidance that we've gotten so far
2 from our colleagues in -- in EH, the Office of
3 Environment Safety and Health, and CEQ is that if it's
4 purely administrative or an internal management issue
5 then it does not require you to go through a full NEPA
6 environmental impact statement process.
7 So there are certain things we have done.
8 The -- the strategic plan, obviously, is something you
9 can -- you need to do just to keep track of all your
10 different activities and provide some performance
11 metrics to make sure that you know where you're going
12 and you're spending your money and getting your money's
13 worth on activities.
14 We're putting together some field guidance
15 that's been asked for by our field offices to provide
16 some -- some guidance to them on how you actually do
17 planning for long-term stewardship. What are the
18 things should be included in plans, who should prepare
19 them when. The so-called "Hand Off" policy is an issue
20 that's really hard upon us, and this -- this arises
21 because we have some sites where there's an expected
22 non-cleanup or non-environmental management mission,
23 such as at Los Alamos or Sandia, Livermore, Kansas City
24 plant. In fact, of the 21 sites with an expected non-
25 EM mission, three of those sites have already -- we've

1 already finished all the cleanup work there but yet
2 there's long-term stewardship work.
3 And the question that came to us was, well,
4 who's going to pay for the long-term stewardship?
5 Should it come out of the Environmental Management
6 budget? Should it come out of the budget from the
7 Defense Program? Say -- who's going to be responsible
8 for managing that money and getting that through?
9 So we went through a year-long process with
10 options papers and meetings with all the program
11 secretarial offices internally within the Department,
12 and the result is the so-called "Hand Off" policy of
13 transfer of long-term stewardship responsibility where
14 the cleanup has already been completed. And that
15 policy should be issued within -- Tess, you heard from
16 Jeff. We think weeks or a week or so. It's just going
17 through final concurrence right now.
18 There's an institutional control policy. I
19 think it speaks for itself. But I think it's -- for
20 anybody who's familiar with EPA and Department of
21 Defense's institutional controls policy, I think it'll
22 be fairly comparable to that but, you know, but more
23 responsive to the DOE issues.
24 And then the two public information sources
25 -- one of which I've already discussed before. It's a

1 requirement for the lawsuit settlement. The other one
2 is a -- we'll just call the site database -- was a
3 commitment by the Secretary of Energy as a result of
4 some -- some news media and Congressional concern
5 earlier this year about sites that had, quote, "fallen
6 off of the -- or fallen through the cracks," unquote.
7 And whether or not we had lost track of
8 significant sites, you know, may or may not be true,
9 but it was correct factually that we didn't have a
10 central database to keep track of sites. There was a
11 database of sites in the EM Program where we're
12 actively doing cleanup. There was -- had been a
13 database of sites where some work in Integral Weapons
14 Program had occurred, like, in the 1940s and '50s, but
15 of course, most of that work was transferred to the
16 Army Corps of Engineers and it wasn't clear who was
17 responsible for that -- that list of sites. So this is
18 helping clarify that and ensuring that even when sites
19 are cleaned up there's at least some place where the
20 Federal government will provide a repository of what
21 happened to those sites, that there's some
22 accountability for that because it costs a lot of
23 money, as we learned, when you have to investigate a
24 site brand new. We've had to do that in the past
25 couple of years, and it's a very costly and disruptive

1 activity. So hopefully, that'll avoid those sorts of
2 surprises and those costs.
3 So the -- what -- what, hopefully, you've
4 seen from that is that there are a number of other
5 activities going on in the area of long-term
6 stewardship that we hope and we believe don't trigger
7 the NEPA requirements in creating problems there but
8 nonetheless are necessary just for the efficient
9 management of the program.
10 Let me go back to the study that we're here
11 to talk about today, the -- the -- the PEIS study.
12 Steve -- Steve Livingstone is the Project Manager for
13 that, and he's such a good project manager he gets me
14 up here as his boss, the front man, to talk about it.
15 Would you prefer calling it the National Study or the
16 PEIS study?
17 MR. LIVINGSTONE: I think it's actually moved
18 past --
19 MR. CASEY: We need -- we need to mike him.
20 MR. WERNER: You could pick one -- or either.
21 (Pause)
22 MR. LIVINGSTONE: My own personal opinion is
23 I think it's important to note that the settlement
24 process helped move the process forward in the
25 Department, but I think the research and the study

1 itself, both from the people working inside the
2 Department as well as the significant effort and input
3 by groups such as State and Tribal Working Group, E-
4 Map, and the Energy Communities Alliance and other
5 folks, put into it has really made it truly a national
6 study. I think it's moved past the requirements
7 outlined in the settlement agreement and becomes a much
8 more useful tool than merely responding to a lawsuit.
9 MR. WERNER: So the answer is you want to
10 call it --
11 MR. LIVINGSTONE: -- National --
12 MR. WERNER: -- National Study, okay. 'Cause
13 I've been calling it the PEIS study, and Steve's been
14 correcting me to call it the National Study 'cause we
15 really did -- we -- both of us were involved in trying
16 to bring that old PEIS in -- under control and we did
17 not want this thing to get out of control. We wanted
18 to try to stay focused on what would be a useful tool,
19 and I think we wanted to make sure it didn't gather
20 dust after -- after it was completed. People could
21 pull it off the shelf and say, oh, okay, here's how
22 that issue could be dealt with and here are some
23 alternatives at least to deal with these -- these
24 issues that crop up and that it's not just something
25 that, you know, goes on and then is forgotten.

1 Appreciate that, Steve.

2 We -- we went through the scoping process

3 last October through February, and we got a lot of good

4 comments from the scoping process, actually. We had a

5 number of scoping meetings that were very well

6 attended, and maybe we did such a good job in the

7 scoping process that we didn't get very much attendance

8 here today. But there may still be a lot of written

9 comments coming in.

10 But the -- the scoping process really helped

11 formulate what the -- the major issues that people

12 wanted addressed in because we obviously couldn't do

13 everything, so we wanted to hear what people were most

14 interested in, what were the most important issues that

15 they wanted to hear talked about. And there's a -- a

16 list of 27 issues that we usually attach to every

17 briefing, but we didn't do it today. Figured we could

18 save paper since everybody's already seen that list a

19 million times before. If anybody doesn't have that

20 list of 27 issues, it's in the study. We can get you

21 another copy, but, you know, we've killed enough trees

22 for the one -- one year in the Federal government.

23 Appreciate you're not just duplicating everything all

24 over again.

25 We -- we got -- I guess the formal comments

1 from 18 people, Bob, that's only the formal written
2 ones. But we had -- we had probably 50 people down at
3 the meeting at Oak Ridge, and we had about 70 people in
4 Nevada, and another 30 or 40 in the -- in Idaho. So
5 there was a lot of verbal comments provided as well.
6 And what we -- we hope you can see, anybody
7 who provided comments in that scoping process, is a
8 good crosswalk that all the scoping comments -- people
9 who thought issues that should be dealt with are
10 addressed in them and then try to sort out what are the
11 most important things, that nothing fell through the
12 cracks, as it were. You know, and that -- maybe that's
13 a -- one of the important places we can -- get comments
14 from you here today or during this comment process, is
15 if you think things fell through the cracks or weren't
16 dealt with, you know, that would be a useful comment
17 for us to get back. But we've tried to make a good
18 faith effort.
19 Here's a -- sort of a one-page summary of the
20 -- the top seven issues. We're cutting costs 30
21 percent. It's not the top 10. The top seven issues
22 for long-term stewardship that people wanted us to
23 address.
24 And interestingly, the top issue was the same
25 issue you recognize from the National Academy of

1 Sciences study. They recommended that you don't deal
2 with long-term stewardship just after cleanup is done
3 but rather you deal with the -- the issues of long-term
4 stewardship during the cleanup process, that you design
5 sustainability in from the beginning. And this doesn't
6 mean gold-plating and doing a Cadillac treatment in
7 every case but in some cases spending less money
8 because it doesn't matter whether you do the Cadillac
9 treatment or the Volkswagen treatment; both will
10 require the same cost for long-term stewardship. And
11 that's what we found in a lot of cases, that people
12 were in fact spending more money than necessary in
13 cleanups because the outcome in terms of the subsequent
14 follow-up would be the same in terms of risk reduction
15 or the cost of long-term stewardship, but at least
16 incorporating those cost considerations during the
17 cleanup design process.
18 The second issue is how do you ensure that
19 you're going to provide long-term stewardship not just
20 during the first transfer. That's the easy part, when
21 you -- the Department may have a ceremony turning it
22 over to somebody. But how do you provide continuity
23 for long-term stewardship during the second and third
24 and fourth processes we're now into for a lot of the
25 sites, at least that I worked on when I was a

1 contractor for DOE doing cleanup back in the 1980s.
2 The access to information is a -- a perennial
3 question that, frankly, we've not addressed entirely.
4 Some sites you're spending a lot of money on -- on
5 information retention without focusing enough on long-
6 term stewardship. Some sites are not focusing money or
7 attention at all on it and things are then dropping off
8 the plates, so then we have to spend a lot of time and
9 money going back and reconstructing things. We've
10 already had to go back and sample sites that had been
11 sampled earlier just because we lost the records of the
12 old sampling information when the site got shut down.
13 The -- the fourth issue is the issue I
14 mentioned before: safe and reliable funding. I
15 appreciate we move that. That's usually number two on
16 this, but it's hard to group these in, you know, simple
17 ordinal ranking. These are really just the top -- the
18 top group of 'em.
19 Ensuring, you know, continued partnerships
20 and -- that one of the issues we, of course, heard most
21 from was the local governments, who feel, and correctly
22 so, they are not legally a part of the cleanup
23 regulatory process but yet local governments do have a
24 role in land-use planning. And how to reconcile that
25 is something that we don't have any decision about in

1 the draft study but we at least address it and do more
2 so in the independent study.
3 And then, of course, developing technologies.
4 You know, right now we've got a very, very preliminary
5 estimate of what the cost will be for long-term
6 stewardship. But the -- the important point I think
7 for that cost estimate is, first of all, it's only an
8 order of magnitude estimate. We believe we can
9 probably do it a lot cheaper as -- as any initial cost
10 estimate the Department intends to be.
11 But secondly, there are only two ways,
12 really, generally, to reduce that cost further. And
13 one is to find out smarter technologies, smarter ways
14 of doing it. And that -- that can only be done through
15 investing in science and technology. And if you don't
16 invest in science and technology, then you are doomed
17 to spend the same amount of money for very long periods
18 of time, you know, whatever it ends up being, decades,
19 centuries, millennia. But the idea that we're going to
20 send a crew of guys out there to sample wells in a Ford
21 Econoline van every three months for 10,000 years just
22 doesn't make sense. We've got to find smarter ways of
23 -- of monitoring the environment. But you know,
24 spending money just to spend money on science and
25 technology also doesn't make sense, so we've got to

1 figure out a way.

2 I mean the other way, of course, is we change

3 the standards. And you know, it's anybody's bet about

4 whether the standards are going to get more strict or

5 less strict in the future, but of course, history tells

6 us that standards have tended to get more strict over

7 time, not less. But we'll see how that changes.

8 And then finally, stewardship prevention. I

9 mean one of the -- one of the -- the -- the issues that

10 arose during preparation of this study is that there

11 are a large number of -- of activities that are going

12 to have to be conducted, from record-keeping to

13 monitoring, maintenance, institutional issues, funding.

14 And there's -- there is seriously an open question

15 about whether the Federal government will be able to

16 effectively accomplish all these tasks with some

17 confidence.

18 You know, I believe we -- we can and we

19 should at least try and that's what we're here to try

20 to do, but obviously, there's -- that's an open

21 question, too. And the -- the point is that the way to

22 do it is to design in the front of the process. When

23 you first design and build a new facility, design it

24 with the DND in -- in mind.

25 Right now, and Ed Szymanski's leading this,

1 but he runs a facility in Idaho where that big process
2 vessels that are located in a building where the doors
3 are too small to move the process outside of it. And
4 they welded everything in place and they built this
5 thing 30 or 40 years ago with no thought in mind about
6 how are they going to dismantle it. So now we're faced
7 with very expensive processes for dismantling
8 facilities that were built as if they were going to
9 last forever. Well, they've been shut down for in many
10 cases 20 years, and we're still trying to figure out
11 how you take a 40-foot titanium, glass-lined,
12 contaminated reactor thing to -- not just nuclear
13 reactions but chemical reactors -- out of something
14 where the door is no bigger than that one right there
15 because the door was built after the facility was put
16 in. I mean this just didn't make sense.
17 So designing facilities with a long-term
18 stewardship in mind because in some cases all you can
19 do is pour concrete into the facilities and put a grave
20 marker on top of it and spend money watching it
21 forever, which isn't necessarily a cost-effective thing
22 to do either. So the stewardship-prevention is the
23 point here. There's not a lot we can do within the
24 scope of this study obviously, but it was, I think,
25 important to raise that point anyway because we've

1 certainly seen that time after time after time where
2 cleanup is being done at -- for facilities where they
3 never thought that you'd ever have to clean it up, that
4 you would just keep operating the facility forever.
5 In doing -- dealing with these issues,
6 hopefully what you'll see is, again, a crosswalk
7 between the scoping comments and our address of the
8 issues. We went beyond, as Steve said, just the PEIS
9 requirements, which is in a -- in a sense exactly what
10 the PEIS called for. The PEIS requires you to do the
11 scoping process, and through the scoping process they
12 had -- there was a lot of comments and issues raised.
13 So you'll hopefully see that crosswalk between them.
14 Some of the things that we think we
15 particularly need comment on, you know, have we really
16 addressed the key challenges? Did we make sure that we
17 describe each of them and address them? Now remember,
18 we can only really describe them and -- and address
19 them in a way that does not make a decision. This is
20 not a NEPA document. It's not a decision-making
21 document. We're not supposed to even express a
22 preference -- in some cases require a whole NEPA
23 process, so to the extent people want decisions, I'm
24 afraid you're not going to see that in this document.
25 It's not appropriate and it's not possible.

1 And does it -- does it communicate clearly?
2 And you know, hopefully we've written in a way that
3 we're not just speaking gobbledy-gook, that it really
4 is a useful resource document people can get stuff out
5 of.
6 With that, let me open it up to -- to
7 questions that anybody might have. Okay. Thank you,
8 Sean.
9 MR. CASEY: Jim, we have two people signed up
10 on the "Speakers" list that are here. I think there's
11 a third on the way. Unless somebody has a specific
12 question about Jim's presentation, we'll --
13 MR. WERNER: Yeah, maybe if there's just any
14 questions about the presentations?
15 MR. CASEY: If you do, please raise your hand
16 so we can get a mike on you.
17 MR. WERNER: Completely clear --
18 MR. CASEY: Okay. Our first speaker is Seth
19 Kirshenberg. If you could, Seth, come up here,
20 introduce yourself, and make sure you speak into the
21 microphone.
22 MR. KIRSHENBERG: Am I supposed to sit in
23 this --
24 MR. WERNER: Yeah -- I'll get this out of the
25 way -- take that --

1 MR. KIRSHENBERG: Actually, why don't you
2 leave that up because I think it's good to -- that last
3 slide -- some of the questions or the particular
4 comments that you're asking -- am I supposed to sit
5 there?
6 MR. CASEY: Yeah, please.
7 MR. WERNER: Or you can use this one, if you
8 prefer.
9 MR. KIRSHENBERG: I feel -- feel kind of
10 weird sitting with my back to all of you, I guess, so
11 I'll stand here and look at both sides. I -- I guess I
12 don't need this yet. I am going to want to address
13 those questions.
14 First, let me tell you who we are and who I
15 am. I'm the Executive Director of Energy Communities
16 Alliance, and we're the membership organization of the
17 local governments around Department of Energy
18 facilities.
19 And obviously, long-term stewardship is
20 critical to us just as the underlying issue, which is
21 really environmental cleanup is critical because one is
22 protection of human health and the environment, but,
23 too, after DOE's gone from a lot of these sites we are
24 the ones who are going to be left still there in those 47.1
25 communities. And where DOE has a continuing operation

47.1 – The Department acknowledges this comment in Section 5.3 of the Study. The Department agrees that the primary purpose of LTS is continued protection of human health and the environment. The Department agrees that in some cases, site-specific LTS plans may need to include provisions for distributing public health information to affected parties, and, where appropriate, plans for health monitoring. A new text box at the end of Chapter 2 of the Study discusses the importance of public health concerns during long-term stewardship. With respect to care and compensation, such decisions would need to be made on a case-by-case basis.

1 we want to make sure that sites that are being
2 transferred out of ownership and being brought into the
3 local community remain protective or -- or are
4 protective of human health and the environment and the
5 sites -- and the -- the environmental contaminated
6 sites that are on-site, we want to make sure that they
7 are not posing a threat to the workers on the site or
8 the people who live around the sites. And those are
9 all real critical issues.
10 What -- whenever I talk about long-term
11 stewardship I like to think about where did we really
12 come from? And this goes into the study because I
13 think the study outlines very well the very complicated
14 issue of long-term stewardship. But to simplify it,
15 and I think the way that communities look at this, is
16 that it really came out of environmental cleanup.
17 The number one criteria which is spelled out
18 in here for environmental cleanup is really the
19 National -- under the National Contingency Plan is
20 protection of human health from the environment. About
21 five, six years ago, people thought when DOE said that
22 they were going to clean up all the sites that all the
23 sites were going to be cleaned up, which meant there's
24 going to be nothing left there when they're done.
25 And there was a big push from the Department

47.2

47.2 – The decision to clean up to unrestricted use, or to meet other specific land use requirements, is made on a site-specific basis with input from regulators, stakeholders, and the public. It is both DOE and EPA policy that cleanup remedies should be consistent with the intended future use of the affected areas. Chapter 2 of the Study includes a new text box that provides a more formal statement on the scope of long-term stewardship and why it is required (i.e., the inability to achieve unrestricted use and the nature of residual hazards). The goal of long-term stewardship is to ensure continued protection of human health and the environment consistent with applicable requirements. The Department recognizes the many issues and public concerns associated with the uncertainties with planning for, documenting, and funding long-term stewardship throughout the Study and acknowledges this comment by including it in a text box in Section 3.2 of the Study.

1 to get buy-in from the local community to say, okay,
2 let's look at future use of the site, let's, you know,
3 let's talk about, you know, our ability to clean up
4 because of, one, we only have a limited budget on the
5 cleanup, and two, there's only a certain amount of
6 technical feasibility that we can do in order to clean
7 up some of these sites as well.
8 And when we got down into that, there --
9 there were years and years of arguments between state
10 regulators, local governments, Tribal governments,
11 citizens' groups saying we want complete cleanup till
12 where we move to. Okay, we will accept risk-based
13 cleanup as long as we have protection of human health
14 from the environment for the long term. And that's
15 really where you get into this long-term stewardship
16 idea.
17 We had a meeting recently in Idaho of the
18 National Governors' Association, National Association
19 of Attorneys General, some Tribal representatives from
20 the State and Tribal Working Group. There were -- I
21 think the local SSAB from the INEL site, I think there
22 was one or two representatives. And then there was
23 ECA. And we talked about what are the issues around
24 environmental cleanup that we can all really agree
25 upon, and that was how to integrate and how -- how

47.3

47.3 – The Department acknowledges this comment in a text box in Section 3.2 of the Study. Existing laws and regulations, especially the CERCLA process that is used for many site cleanups, require public involvement in the activities and decisions that lead to the selection of a remedy (ROD), including the technical and economic feasibility of cleanup to unrestricted use. However, these laws and regulations do not clearly articulate the role of public involvement in the activities and decisions that follow the ROD. At the same time, the Department recognizes that the ultimate success of long-term stewardship depends on the active involvement of the affected parties, including local governments and Tribes. It is important for all parties to develop a workable approach for meaningful public involvement in the decisions that affect and manage long-term stewardship activities. The Study identifies this as an additional key challenge associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions. The Department's Long-term Stewardship Working Group also has identified the issue of under what circumstances DOE should consider funding of external parties as one of the most important issues that should be addressed by the Executive Steering Committee. Although the general issue of public involvement has been identified to the Executive Steering Committee, specifics of implementation (e.g., what external organizations should be involved, what should be provided by DOE, what mechanisms for public involvement should be used) have not been discussed and may be determined on a site-specific basis. We intend for the public participation process to allow for meaningful Tribal and public involvement.

1 long-term stewardship is going to work because if we
2 are going to support the idea that less cleanup is
3 going to happen, that -- that the Federal government is
4 not going to spend I forgot how many trillions of
5 dollars it was going to be to clean it up to background
6 levels, then we -- then long-term stewardship has to
7 work. And that's really where we come out, and that's
8 where, really, the importance of this type of report
9 comes out.
10 This report when we went through it -- by the
11 way, ECA, for the record, is going to submit specific
12 comments in writing. The local governments right now
13 around the sites have begun drafting something and have
14 sent something around to each other, and by December
15 15th, the deadline, we will submit the specific report
16 -- the specific comments.
17 One of the things that we want to make sure
18 is addressed in the comments, though, as well is
19 looking at the idea of permanence and making sure that
20 that is something that -- that's integrated very
21 clearly into the report. I think it is when it talks
22 about some of the issues, but I want to make sure
23 that's also highlighted as part of the national
24 contingency plan and those types of things.
25 We really support the ideas that are spelled

47.4

47.4 – Long-term stewardship planning (see Chapter 4 of the Study) and remedy selection decisions are done on a site-specific basis with input from regulators, stakeholders, and the public. As noted in Exhibit 3-1 of the Study, the criteria used to evaluate remedial alternatives include long-term effectiveness and cost-effectiveness. The long-term effectiveness of institutional controls is one of the criteria for evaluating long-term stewardship requirements during remedy selection that have been suggested in guidance developed by DOE, EPA, and the Department of Defense (DoD) and in recommendations forwarded to the Department (see Exhibits 3-2 and 3-3 in the Study). The Department also has identified the need to promote new science and technology development to help address the uncertainties associated with maintenance of institutional and engineered controls. The Department acknowledges the public concerns about long-term effectiveness in a text box in Section 3.2 of the Study. The issue of uniform or national standards for cleanup is beyond the scope of this Study because this document focuses on long-term stewardship.

1 out. I think this is the first time I've seen in the
2 DOE document where it's spelled out all the different
3 laws that go into -- that are integrated into
4 environmental cleanup at the sites and how remedy
5 selection plays into that. So actually, I thought that
6 -- and ECA believes that that is very good.
7 I think it also allows people to realize the
8 issues and how important they are and how difficult
9 they are to resolve as far as long-term stewardship.
10 It lays them out -- it lays out all the issues, and as
11 you said, it's not a decision document so it doesn't
12 give us solutions, but I think that's what people are
13 looking for, the development of those solutions. I
14 think that's going to be critical. I guess those are
15 next steps in the process, so I think that's something
16 that we're going to need.
17 What it does do, it -- this is something, as
18 I said, that all the different groups that we work with
19 and the citizens have really rallied around in wanting
20 to make sure that this really works. And I think that
21 this is something that is critical for the Department,
22 and I think it's something that Dr. Huntoon has said is
23 critical for the Department to move forward with. And
24 I think people are relying upon long -- this idea of
25 developing a solution of long-term stewardship with

47.5 47.5 – The Department appreciates this comment. Thank you.

47.6 47.6 – See response to Comment 47.3.

1 communities, and I think that's real important. I
2 think that's spelled out in here in how you're starting
3 to do that, and I think that's real good.
4 I guess, you know, the one thing that I want
5 to -- want to leave with this, because I do think this
6 report is -- is a good outline of issues, is the real
7 need for the next step. And I think the NDAA report
8 will spell out some of the specific issues, and I think
9 it -- if you look at this type of report with the, I
10 guess, the last -- I think the last iteration of it is
11 the "10-Year Report." Is that the last iteration? The
12 "2006 Report," then the "10-Year Report"? What's the
13 latest one? The "Paths to Closure Report"? Okay.
14 The latest version is the "Paths to Closure
15 Report" with the NDAA report. I think it will spell
16 out for the local communities around the sites really
17 what is going to happen at the end-state or what needs
18 to happen at the end-state. And I think with that I
19 think the Department will be able to continue to have
20 support for its environmental cleanup program. I think
21 without those types of things and without some
22 certainty that long-term stewardship or this work on
23 long-term stewardship, I think what you're going to see
24 is the possibility of a drop-off in support because
25 what we want to make sure is that there's protection of

47.7 – The Department issued the National Defense Authorization Act (NDAA) Report, entitled A Report to Congress on Long-term Stewardship, in January 2001 (DOE/EM-0563). The Report to Congress and the Study were prepared as separate documents because the required scope for each was different. The primary focus of the Report to Congress was site-specific requirements; the primary focus of the Study was common national issues. Nonetheless, the two reports are complementary to one another, and the public is encouraged to read both documents. The Report to Congress can be useful for certain common long-term stewardship analyses, such as evaluating long-term stewardship needs. Similarly, the Department has added a text box to Chapter 2 of the Study providing an overview of the overall scope of DOE's long-term stewardship responsibilities. The cost estimates from the Report to Congress have been incorporated into Section 8.1 of the Study. They were not in the Draft Study because the cost information in the Report to Congress was not final prior to publication of the Draft Study. The Department anticipates that life-cycle cost estimates will improve over time as DOE moves forward with planning and implementing long-term stewardship. For the Report to Congress, each site was strongly encouraged to work with local stakeholders during the preparation of site-specific cost estimates. The Study is not the appropriate document to respond to specific comments on the Report to Congress or on the public comment process used to develop the Report. The Department encourages members of the public to comment on their respective site's cost estimate through established public involvement mechanisms at each site.

47.8 – See response to Comment 47.2.

1 human health from the environment.

2 So I think that's going to end my comments,

3 and we're going to give specific comments on -- on the

4 report, you know, page-by-page for -- in writing.

5 MR. WERNER: Okay. Great. Thank you very

6 much, Seth.

7 MR. CASEY: Susanne Snyder is next on the

8 list. And I believe that's the only other person still

9 on the list. And you're welcome to here, or if you'd

10 rather take this one?

11 MS. SNYDER: I'll take this one.

12 Hi. My name's Susanne Snyder. I'm from the

13 Shundahai Network in -- well, we're now in Pahrump,

14 Nevada. And so we're very -- we're very tied to this

15 because we all live in Pahrump, which is directly --

16 it's -- it's on the downstream way from the test site.

17 So we've been following this through our Citizen

18 Advisory Board and so forth.

19 And I'm very happy to be here. Glad to have

20 the opportunity to come in and -- and comment on this.

21 I was a little mistaken coming in here. I thought this

22 was a hearing on the -- we have -- our CAB has given us

23 the draft what -- we've gotten part of the NDAA, and

24 the more specific --

25 MR. WERNER: You should have gotten that back

1 last -- you should have gotten that back in April or
2 May.
3 MS. SNYDER: Yeah. Well, that's what --
4 MR. WERNER: Okay.
5 MS. SNYDER: -- that's why I was somewhat
6 mistaken and realized this was a different document.
7 But I have glanced -- glanced through it briefly, and I
8 will submit and Shundahai Network will submit again --
9 MR. WERNER: Okay. Great.
10 MS. SNYDER: -- more specific comments.
11 The -- a couple of points that I'd like to
12 make just specific to this is that my confusion -- I
13 came and I was looking at the EM website and trying to
14 get more specific information. It's not very clear on
15 this hearing -- or this wasn't posted and what, you
16 know, what would be going on here. So that's one thing
17 I'd like in the future for you all to take into
18 consideration is, you know, in the process of better
19 communication and more public involvement to -- to have
20 it clearly -- it wasn't on the calendar, on the EM
21 calendar. So I was looking for it. Maybe I didn't --
22 I'm not very web-savvy, so maybe I didn't -- just
23 didn't look in the right place, but nevertheless, you
24 know.
25 But especially in our area, we have a history

30.17

30.17 – The Department acknowledges this comment in a text box in Section 3.2 of the Study. Existing laws and regulations, especially the CERCLA process that is used for many site cleanups, require public involvement in the activities and decisions that lead to the selection of a remedy (ROD), including the technical and economic feasibility of cleanup to unrestricted use. However, these laws and regulations do not clearly articulate the role of public involvement in the activities and decisions that follow the ROD. At the same time, the Department recognizes that the ultimate success of long-term stewardship depends on the active involvement of the affected parties, including local governments and Tribes. It is important for all parties to develop a workable approach for meaningful public involvement in the decisions that affect and manage long-term stewardship activities. The Study identifies this as an additional key challenge associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified public involvement as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. This issue includes how DOE should balance the need to involve the public in maintaining controls (e.g., institutional controls such as water use restrictions) with competing needs such as classified information or activities, particularly at sites with ongoing national security missions. The Department's Long-term Stewardship Working Group also has identified the issue of under what circumstances DOE should consider funding of external parties as one of the most important issues that should be addressed by the Executive Steering Committee. Although the general issue of public involvement has been identified to the Executive Steering Committee, specifics of implementation (e.g., what external organizations should be involved, what should be provided by DOE, what mechanisms for public involvement should be used) have not been discussed and may be determined on a site-specific basis. We intend for the public participation process to allow for meaningful Tribal and public involvement.

1 of being -- well, Dewey has a legacy of secrecy and,
2 you know, there's -- it's very hard, especially with
3 our site, with the Nevada test site, because the site
4 -- wants to contain -- I'm sorry, continue readiness
5 for future testing and for other projects. It's very
6 hard for us to trust any idea of long-term stewardship
7 when we see radioactive waves trucks going into the
8 site, we don't see them coming out. And so it's hard
9 for us to think that there's any possibility of
10 cleanup, especially when we're told, no, cleanup's not
11 economically feasible, cleanup's not technologically
12 feasible.

30.18

30.18 – The decision to clean up to unrestricted use, or to meet other specific land use requirements, is made on a site-specific basis with input from regulators, stakeholders, and the public. It is both DOE and EPA policy that cleanup remedies should be consistent with the intended future use of the affected areas. Chapter 2 of the Study includes a new text box that provides a more formal statement on the scope of long-term stewardship and why it is required (i.e., the inability to achieve unrestricted use and the nature of residual hazards). The goal of long-term stewardship is to ensure continued protection of human health and the environment consistent with applicable requirements. The Department recognizes the many issues and public concerns associated with the uncertainties with planning for, documenting, and funding long-term stewardship throughout the Study and acknowledges this comment by including it in a text box in Section 3.2 of the Study.

13 And one of the things I'd like for you to
14 consider also is how to divert some of this -- I know
15 you're looking at a lot of this and a lot of the
16 funding and how we're going to fund something that's
17 going to take so long to clean up and so on and so
18 forth. But to -- to really put -- you know, to direct
19 a portion of this -- of these funds towards studying a
20 good way to clean up because we know our ground water
21 is contaminated. It's not right beneath our house yet,
22 but it will be eventually. Maybe not in my lifetime,
23 maybe not my kids, but maybe by my grandkids. We don't
24 know.

30.19

30.19 – The Department acknowledges this comment in a text box in Section 4.2.4 of the Study. As noted in Section 4.2.4 of the Study, the Department's process for developing and implementing new science and technology includes developing a long-term stewardship science and technology roadmap that will (1) identify science and technology needs; (2) identify existing capabilities to meet these needs both within and external to DOE; (3) determine research and development priorities; and (4) direct specific efforts to meet these needs. The Department agrees that research into a number of key areas is needed, including the long-term effectiveness and reliability of engineered and institutional controls, surveillance and monitoring, and information management. Advances in science and technology may provide future generations with the ability to cost-effectively achieve unrestricted use at some sites. The Department's Long-term Stewardship Working Group recently identified the policy issue as to whether the ultimate goal of new science and technology should be to improve the ability to maintain the existing end state (i.e., the end state established during cleanup) or should be to "improve" the end state more closely toward unrestricted use as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee.

25 And that's part of the thing is we want to

1 have a -- we want to have it -- a more open dialogue.
2 We keep asking, well, what contaminants are there?
3 What -- what specific contaminants are there? And we
4 won't -- we don't get that information. That's really
5 hard to -- to build this trust 'cause if we're going to
6 trust DOE to -- and then -- and then -- NNSA to take
7 care of the surrounding communities, to protect our
8 health and our safety, we want to -- you know, we want
9 to be able to find out the information, to make sure
10 that there are peer review studies done, to make sure
11 that, you know, it is solid. And because we don't have
12 a very good history of trust, we want to be able to
13 build trust and build a working relationship in the
14 community.
15 And that's very important, and I hope you --
16 you all understand that, and that's a big need for us
17 is to have that -- have a trust that we don't have
18 right now.
19 Let's see. And a couple other things.
20 (Pause)
21 MS. SNYDER: No, actually, that's -- oh, the
22 "Hand Off." The "Hand Off." Again, that's not as -- I
23 haven't read through this as thoroughly as I would
24 like, but it's not as clear and it's hard to -- it's
25 hard to visualize it, maybe, at this time but hopefully

30.20 30.20 – See response to Comment 30.17.

30.21 30.21 – The current DOE policy on site transfers is reproduced in Appendix G of the Study and is summarized in Exhibit 4-1 of the Study.

1 it'll come through clearer and to have a more -- as the
2 processes develop, as we see it happen at other sites
3 around the country, we'd just like to make sure that we
4 get good strong information at our site to see that it
5 does work, to see that the communities -- you know, to
6 have good community -- community interaction so that we
7 know, you know, we can trust -- we know we can trust
8 that it will work.

30.22 30.22 – See response to Comment 30.17.

9 Again, it all comes back -- boils down to
10 that issue of trust. And that's about all I've got.
11 Thank you very much.
12 MR. WERNER: Thanks. Thank you very much.
13 MR. CASEY: Anyone else? Those are the two
14 that we did have signed up.
15 Okay. Thanks. You're welcome to sit or
16 stand.
17 MR. WERNER: You can sit here if you want.
18 (Pause)
19 MS. CHRISTOPHER: My name is Trish
20 Christopher, and I'm with the Alliance for Nuclear
21 Accountability. And today I'm speaking on behalf of
22 not only our alliance but Cathy Crandall who was unable
23 to be here on time, so she might actually walk in while
24 I'm speaking.

5.0 Please see responses to Comment Letter 5.

25 So the alliance is actually -- Cathy has

1 written several comments, a series of about eight of
2 them, that I guess I'll just read for -- so that
3 everyone -- okay.
4 A little bit about the Alliance for Nuclear
5 Accountability. We are a network of local, regional,
6 and national organizations working together to promote
7 education and action, to address issues related to the
8 cleanup and protection of the public and the
9 environment at DO -- at Department of Energy sites.
10 Many -- many ANA member organizations were
11 plaintiffs to the lawsuit settlement requiring this
12 study on long-term stewardship, so ANA has a special
13 interest in it. We want to ensure that this study is
14 the first step in -- in an intuitive, open, public
15 process of long-term stewardship planning for the DOE
16 weapons complex.
17 We recognize -- this is two. We recognize
18 and commend the effort that went into the study and
19 note that in addition to this study the Office of Long-
20 Term Stewardship has also worked on other aspects of
21 long-term stewardship information gathering and sharing
22 to lay the foundation for public -- for policy
23 development in this area. We hope that this foundation
24 work -- this foundational work will be preserved and
25 built upon during the next administration.

1 For example, we hope that the excellent Long-
2 Term Stewardship website will be maintained. Moreover,
3 we think that preserving one Office for Long-Term
4 Stewardship at DOE headquarters with the authority to
5 coordinate long-term stewardship activities would be
6 helpful in furthering coherent, credible, and cost-
7 effective long-term stewardship planning and policy.
8 The Long-Term Stewardship Office has also
9 been working on a report to Congress on long-term
10 stewardship as required by the Fiscal Year 2000
11 National Defense Authorization Act. Although Congress
12 required the report by October 2000, the report is
13 still not completed. It is unfortunate that this
14 Congress that requested the report will not be able to
15 review it. This NDAA report is another essential piece
16 of work that provides more site-specific information.
17 We strongly urge that the Department promptly complete
18 its work on this report and release it so that both the
19 report and the study together, the PEIS -- the study
20 and the NDAA report are available to inform Congress as
21 well as the next administration, stakeholders, and
22 interested members of the public.
23 Okay. As DOE moves forward with its steps of
24 long-term stewardship policy planning and development,
25 it is of paramount importance that the public and

1 stakeholders be engaged and involved in decisions from
2 the very beginning. DOE must also make a long-term
3 commitment to provide opportunities for meaningful
4 public participation in future cleanup and stewardship
5 decisions. This means providing information as
6 discussed in the study but also providing for regular
7 meetings and hearings with stakeholders. The study
8 notes the importance of working with other Federal
9 agencies, state, Tribal governments, and local
10 governments, and we wish to emphasize that in members
11 of the public in an affected -- in affected communities
12 need to be present at the decision-making tables as
13 well.
14 Building strong local public involvement is
15 possibly the most essential element of ensuring
16 survivability and sustainability of long-term
17 stewardship. People need to know what happened at
18 these sites, what materials were handled, what
19 contamination levels exist, what health risks exist, et
20 cetera. And they need to know that they share
21 responsibility for protecting their communities with a
22 say in cleanup standards, choosing remediation and
23 monitoring technologies, and establish zoning
24 restrictions, et cetera.
25 ANA believes that the primary purpose of the

1 long-term stewardship should be to protect human
2 health. Certainly, this must be a primary reason why
3 DOE currently spends so much effort and attention on
4 cleanup. With that focus in mind, we suggest the
5 following.
6 One. Information provided to the public,
7 including databases, fact sheets, et cetera, should
8 also include information and possible disease outcomes
9 related to contamination and health risks.
10 Two. Physicians and public health providers
11 should be specifically targeted with this information.
12 Three. With full public participation,
13 health monitoring plans should be developed in
14 appropriate communities.
15 And lastly, the DOE Long-Term Stewardship
16 Office should work with the DOE Office of Environment,
17 Health -- Environment Safety and Health and other
18 Federal, state, Tribal, and local health agencies to
19 develop a public health long-term stewardship plan at
20 each site.
21 Even with the best redundant and robust long-
22 term stewardship plan, we know that there will be
23 failures. Some of these failures may require emergency
24 medical responses, an explosion for instance, but some
25 -- failures may lead to health effects over time,

1 failure to contain seeping ground water plumes leading
2 to contamination of the water supply, for example, and
3 may require a long-term -- a longer-term public health
4 response.
5 When failures of long-term stewardship lead
6 to disease outcomes such as cancer or other illnesses,
7 the Federal government should provide adequate care and
8 compensation to those people. Tracking illnesses and
9 caring for people over the long-term should be seen as
10 part of the long-term stewardship. Any funding
11 mechanism should also provide funds for this.
12 "ANA would like to offer -- offer a specific
13 comment on the issue of how long will long-term
14 stewardship be managed at sites with on-going missions
15 other than cleanup," and that last sentence was in
16 quotations, from Section 4-3.
17 Between two options, transferring to the DOE
18 program responsible for the ongoing mission or
19 Environmental Management taking responsibility. We
20 recommend that Environmental Manager or the successor
21 organization take responsibility for long-term
22 stewardship at the site. We do not believe that other
23 -- that the other line programs of DOE would put equal
24 focus into the long-term stewardship mission because
25 this goal could often conflict with or compete against

1 productions and other missions. This is a special area
2 of concern at the National Nuclear Security Agency
3 sites where it is unclear to -- it is unclear who will
4 have authority over environmental management issues.
5 Regardless of the option chosen, it is of
6 particular importance that the long-term stewardship
7 planning and activities be coordinated with adequate
8 project management oversight in one office within DOE.
9 We recognize this as a relatively short-term issue, but
10 we believe it is very significant in getting the
11 initial long-term stewardship planning off on the right
12 track. DOE should make sure that long-term stewardship
13 is not viewed as an afterthought and addressed in a
14 fragmented, ad hod manner but rather is the singular
15 priority of one office.
16 As DOE continues with its long-term
17 stewardship planning, we urge a careful look at the
18 sites on the 1995 List of Sites Reviewed for possible
19 past involvement in nuclear weapon and nuclear energy
20 release activities, also known as the FUSRAP List.
21 Sorting out these sites is an important and difficult
22 task. We urge the DOE to continue work on this list,
23 specifically creating a database that will provide
24 information about each site. The lack of currently
25 available information about many of these sites should

1 also serve as a lesson in how not to do long-term
2 stewardship. An analysis of the elements missing in
3 the FUSRAP List may help to avoid pitfalls in future
4 long-term stewardship planning.
5 Thank you for the opportunity to participate
6 in this hearing -- hearing. ANA and our membership
7 organizations are still in the process of reviewing the
8 study, and we are likely to submit additional comments
9 before the December 15th -- by the December 15th
10 deadline.
11 MR. WERNER: Okay. Thank you very much.
12 Thanks for coming.
13 MR. CASEY: I just wanted to note for -- for
14 the transcript that there was also written comments
15 handed in, so I just wanted to make sure that got into
16 the record.
17 That is all the people we have on the
18 "Speakers" list. Is there anyone who is here who would
19 like to speak? Just wave your hand at me and you're
20 welcome to come up, and I'll give you the microphone.
21
22 MR. WERNER: Okay. Sean, let me just -- Liz,
23 did you want to present? Very good.
24 MS. HOCKING: My name is Liz Hocking.
25 Basically, only four observations. The

1 first is one -- it's just a linguistic issue that I've
2 always had with this, and you address it very nicely in
3 Footnote 4 of page 5. It's this whole issue of
4 cleanup. You know, we say we're doing cleanup at the
5 sites but then we say, but we're not really cleaning
6 up. And just -- it's always been a linguistic issue
7 for me that we say to people we're going to clean up
8 but we're going to leave stuff behind.
9 And I think it's just maybe time to rethink
10 or come up with a better term for what we're really
11 doing. I don't know what that term would be, but I --
12 you address it. I think you address it very nicely.
13 And maybe this is the time and the vehicle to say let's
14 start thinking and using this term for these sites. I
15 don't know what the term would be, however. But I
16 think your Footnote 4 is a nice way of saying we
17 realize that we are not cleaning up, and maybe we
18 should use a term that's more reflective of what we're
19 really doing.
20 The other one is that I think it -- it's
21 underscored throughout the report but I'd like maybe to
22 see a little bit more attention paid to it, and that's
23 emphasis put on the nature or the issues or the
24 organizational structures that need to be in place to
25 make sure that all the things that are being talked

48.1

48.1 – The Department acknowledges this comment in a text box in Section 2.1 of the Study. The Department agrees that the terms "cleanup," "end state," and "closure" are less than ideal. The term "cleanup" is a common word usage that can be confusing. To help clarify the limits of current cleanup technologies and the overall scope of long-term stewardship, the Department has added a text box to Chapter 2 of the Study that describes the limitations and challenges that preclude remediating many sites to levels that would permit unrestricted use; the types of residual hazards that will require long-term stewardship; the time frames that may be involved in long-term stewardship, and the activities that may be involved in long-term stewardship. The Report to Congress on Long-term Stewardship provides additional site-specific information on the projected scope of long-term stewardship. The Department also maintains a Web Site (http://lts.apps.em.doe.gov) that provides public access to numerous documents describing the scope and challenges associated with long-term stewardship. The Department's Long-term Stewardship Working Group recently identified the issue of developing a consistent, consensus definition of long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee.

1 about in the report are actually done. The monitoring
2 is done, that the Bagel is actually done.
3 And so, it's inherent in here when you talk
4 about you need to have, you need to think small, you
5 need to have monitoring systems. It's inherent that
6 there's an organizational system there to do it, but
7 I'd like to see more attention paid to what that system
8 might be like or what the characteristics might be,
9 what the issues related to trying to set up an
10 organization like that might be. You know, should
11 there be some kind of a big Federal entity that takes
12 DOD and DOE land that has residual contamination? I'm
13 not quite sure, but I think that organizational
14 structure needs some attention.
15 The third has to do with the -- on page 109
16 you refer to managing the problem and managing the
17 hazards, and I was really pleased to see that because I
18 think that's -- again, it goes back to the original
19 question I had about we say we're cleaning up. And I
20 think the other thing that we've said to people or
21 people have gotten this impression that once
22 stewardship is in place people are just going to kind
23 of walk. And that's certainly not the case, and you
24 managed that very nicely in that -- those two sections
25 on page 109.

48.2 – The Department acknowledges this comment in a text box in Section 4.2 of the Study. The Department's Long-term Stewardship Working Group recently identified the need for a corporate vision for long-term stewardship as one of the most important issues that should be addressed by the senior management Long-term Stewardship Executive Steering Committee. The corporate vision includes the appropriate organizational structure for long-term stewardship within the Department. The Department also recognizes that it is important to define long-term stewardship roles and responsibilities both within DOE and between DOE and other entities, including other federal agencies, states, Tribes, and regional governments. The Executive Steering Committee is developing a Strategic Plan for long-term stewardship; part of that effort will include identifying roles and responsibilities within DOE. The Department also notes that long-term stewardship as an issue is broader than DOE sites. For example, states and local governments already have long-term stewardship responsibilities at municipal landfills, and states may have long-term stewardship responsibility for some "Superfund lead" sites on the CERCLA NPL. Implementation of long-term stewardship across this broad spectrum of sites will require states to develop their own, independent capability to provide long-term stewardship.

48.3 – The Department acknowledges this comment in a text box in Section 10.2 of the Study. The Department agrees that remedies may need to be reassessed periodically in light of changing circumstances and information. Section 10.2 of the Study includes a discussion of these points.

1 And in that, you talk about using -- thinking
2 about stewardship in terms of smaller chunks. You use
3 30 -- 30 to 50 years. I was even thinking smaller,
4 like 20 years, thinking a generation. You know, you
5 normally think of a generation as about 20 years. A
6 career is about 20 years. Maybe even thinking smaller
7 chunks of what you think about in terms of stewardship,
8 so manage for smaller time chunks.
9 But I certainly think what you've done at 109
10 is -- really grasps the problem and is probably one of
11 the better statements I've heard about how to address
12 stewardship.
13 And then overall, I think you've really done
14 a nice job of collecting all the issues, the legal
15 issues, the community involvement issues, that are
16 associated with stewardship. So I think overall it's a
17 very good basic document, and again, I'd be real
18 interested in seeing how the policy of that flows from
19 it, particularly the organizational structures that
20 flow from it I'm interested in. Thank you.
21 MR. WERNER: Thank you, Liz.
22 MR. CASEY: Anyone else?
23 MR. WERNER: Sean, maybe to give people a
24 moment to think if they want to talk, there are a few
25 issues that were just brought up in the commentors.

1 And I know you're not -- we're not required to
2 necessarily respond to every single comment as they
3 come up, but just to provide clarifications.
4 I think it's very interesting, Liz, with all
5 of your years of background analysis that you come up
6 with the simple question of this word "cleanup." I
7 come to the same issue sometimes, but we don't have a
8 better one. But I think perhaps that reflects the
9 newness of the issue, that we don't even have a -- an
10 adequate vocabulary to -- to identify what's being
11 done.
12 In fact, what about life cycle costs? I mean
13 we've -- you know, I've spent much of my career on life
14 cycle costing either as, you know, engineering
15 consultant or, you know, in the bureaucracy, but yet
16 life cycle isn't necessarily the right word to use for
17 the long-term stewardship because there really isn't a
18 -- a clear end yet. I mean not a realistic one because
19 there's so much uncertainty out in the future that it's
20 preposterous to really spend a lot of time and money
21 planning for, you know, so much uncertainty in 10,000
22 years. So "life cycle" isn't even a good word, but yet
23 you do want to ensure the full costs are accounted for.
24 So there is some other terminology, maybe, that's a
25 mixture of their whole, you know, engineering life

1 cycle costing that -- versus what we now need to do.
2 So the terminology is an issue. It's all -- maybe
3 that'll come out of the -- you know, all the policy --
4 and other work.
5 And just to clarify for people who didn't
6 understand what Liz was referring to, the Bagel
7 diagram. There is a -- a diagram that we've used many
8 times before that shows essentially a circle -- Bob's
9 going to tell me what page it is for reference. But it
10 shows that the -- the nature of cleanup is iterative.
11 On page 112 in the -- in the report we present the
12 model that I think at least some regulators have found
13 reassuring that in -- in doing a monitoring you revisit
14 it, and if monitoring indicates the need for some
15 maintenance then you go back and do the maintenance.
16 But if you come to a certain point where the available
17 for unrestricted use, then, you know, long-term
18 stewardship essentially ends with the important
19 exception of record-keeping that, you know, one of the
20 commentors brought up. You've got to keep a record of
21 where cleanup is done and to what standard it was
22 completed to so you don't end up going back and doing
23 cleanup again at that site even though it's been done.
24 And you're right: this is more of an
25 idealized version and -- and maybe it's the job of the

1 institution to figure out how to implement this in a
2 realistic way. Because right now we have a linear
3 view, and maybe our disconnect is people are saying we
4 don't buy the linear view where it goes to an end and
5 at the end you have a box that says, magic happens, and
6 the problem goes away because we know that it doesn't.
7 In fact, you've got to provide an institutionalized
8 way.
9 But I guess I would -- I would say that, you
10 know, at a much, much lower cost back here. You know,
11 that once you reduce the risk and you are able to
12 reduce the cost and we don't necessarily have 10,000
13 people, for example, showing up to work at a site that
14 hasn't had a nuclear weapons mission for 10 years that,
15 you know, the -- this case study of the Weldon Springs
16 site is a very good lesson where they had 10 employees
17 there for almost 20 years providing protection. Nobody
18 got hurt or exposed, and they made sure that the
19 monitoring and the maintenance was done for a
20 relatively small amount of money. And at that point
21 they were able to go back in and start the cleanup.
22 And even though it's a very similar site
23 technically to the Frenault site that the -- the budget
24 there is $50 million compared to Frenault has $400
25 million. And they've been able to stabilize it and

1 keep it in a safe, secure situation for, you know,
2 decades there because, you know, they had a whole
3 different mode of operating.
4 There were two questions that arose about the
5 -- the "Hand Off" policy. Let me just clarify.
6 Without defending it necessarily, let me just
7 acknowledge that, you know, there is -- that there is
8 an issue of, you know, which way you should go. Should
9 you have EM, the Environmental Management Office within
10 the Department, take care of long-term stewardship for
11 those sites, or should you have the so-called land-
12 loader organization, in some cases, Defense Programs?
13 And we recognize that people might raise
14 questions about the -- the trust and confidence in
15 Defense programs, but let me just explain a little bit
16 of detail that may explain a bit why perhaps the
17 decision was made as it was to make the land-loader
18 organization responsible.
19 The process for turning over responsibility
20 will require three things, and I think it is a good
21 thing that -- to require these -- these issues be
22 attended to. First of all, a technical plan has to be
23 in place identifying exactly what tasks have to be
24 done. You know, do you need one security guard or 10?
25 Do you need a half a security guard? Do you need to

1 monitor at one well or 100 wells? You know, what are
2 the specific technical activities that have to occur?
3 What it's going to cost? So that'll be the first time
4 we get a clear technical view of the work to be done to
5 accomplish the long-term stewardship work.
6 Secondly, there has to be a budget target
7 agreement. That is, you know, every year we have
8 budget targets that we live by, and each office in a
9 sense has a budget target where you have to make plans
10 at least two years in advance to transfer that budget
11 target. And that agreement has to be laid out within
12 the organization so that when -- somebody's not left
13 with, basically, an unfunded liability, so that Defense
14 Programs doesn't want to one day wake up and know that
15 they're responsible for paying for something but EM
16 still has the target money. So that has to be worked
17 out.
18 And the third thing is there has to be an
19 explicit written agreement with roles and
20 responsibility between the two organizations. And I
21 think in combination the technical plan, the funding
22 target agreement, and the roles and responsibility
23 agreement provides, I think, very good and useful
24 visibility to ensure that the work is done. And in
25 fact, that sort of visibility is probably more so than

1 in cases where it's just Environmental Management
2 continuing to do the same work, in some cases maybe
3 using the same contractors and the same, you know, old
4 contracting centers that may not have been, you know,
5 appropriate for doing a long-term stewardship.
6 So there are actually some benefits in doing
7 it this way, that we recognize that there's, you know,
8 a good and a bad side to it. So I just wanted to
9 explain that since sort of the concerns that were
10 raised about it.
11 Let me see if there's any final questions and
12 we can break for coffee or whatever you want. Or if
13 there's other commentors that want to --
14 MR. CASEY: Other commentors at this time?
15 (No response)
16 MR. CASEY: What we'll do is, as Jim said,
17 we'll -- we'll break. There will -- we'll leave the
18 microphones here. The court reporter is -- is here
19 throughout the entire comment period, which goes until
20 1:00. If somebody changes their mind, please find me
21 and we'll -- we'll set you up and get you going, and
22 we'll also be here if other people come in between now
23 and 1:00 that want to speak.
24 And thank you for your time and attention.
25 (Whereupon, at 10:36 a.m., the hearing was

1 adjourned.)

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