HEARING CHARTER

THE SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT AND
THE SUBCOMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON SCIENCE AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES

THE DEPARTMENT OF ENERGY'S SUPPORT FOR THE SAVANNAH RIVER ECOLOGY LABORATORY (SREL), PART I

TUESDAY, JULY 17, 2007
10:00 A.M. – 12:00 P.M.
2318 RAYBURN HOUSE OFFICE BUILDING

Purpose:

The purpose of the hearing is to examine the past and current work of the Savannah River Ecology Laboratory (SREL), its relationship to the Savannah River Site and the Communities bordering the Site, and the events leading to the Department of Energy's decision to withdraw funding for the laboratory in fiscal year 2007.

Background:

SREL was established in 1951 to track the ecological changes and environmental consequences of establishing nuclear weapons production facilities on the Savannah River Site (SR or SRS). It is unique within the DOE complex because it is the only lab that is not "owned" by DOE. Rather, the University of Georgia founded the lab and has always had a relationship with DOE that has allowed them to be present on the site and funded by the Department (and the Atomic Energy Commission before DOE was established).

SREL has been a very productive scientific lab with a distinguished record of publication and an amazing amount of unbroken data sets on the ecology of the site. While the site itself was a center for weapons production and contains enormous amounts of waste, with ongoing waste processing that will stretch out for a generation or longer, it is also an enormous physical site—much of which includes pristine environmental conditions. Largely untouched by development, the Savannah River site hosts the most diverse and complex ecology in North America and contains all representative ecosystems of the southeastern U.S.

Recognizing these unique features of the site, in 1972 the Atomic Energy Commission created the first National Environmental Research Park (NERP) located within the DOE complex at Savannah River. There are seven NERPs located at DOE sites around the country. SRS has 30 set-aside areas where no development of any kind is allowed to go forward. SREL has monitored the ecology in these set-asides ever since they were established. Another facet of the SREL work in the NERP is that they are a major way that the Savannah River Site carries out its "stewardship" responsibilities—to show to the Nation that they are caring for the site in a way

that justifies their occupation of the land at these sites. The National Environmental Policy Act (NEPA) established environmental protection as a mission of all federal agencies. SREL has carried out this function through very successful public education programs to bring the public and students to the site and show them the unique qualities of the ecology there.

SREL also collects data that is used by the site to demonstrate its compliance with a number of environmental laws. IF SREL does not provide these data as part of their base work, the site will have to hire a contractor to collect that information. The communities that border the site in Georgia and South Carolina and that are located downstream from the site also rely on the lab to be a trusted, independent voice that will tell them the truth about the nuclear wastes on the site, the remediation activities on the site, and the safety of being near or downstream from it.

DOE Funding and Cooperative Agreement with SREL and University of Georgia:

The Bush Administration's budget requests for SREL have varied considerably, but with a general downward trend since FY 2002. The first budget they composed, for FY 2002, included a 30% cut in the request for the lab by Environmental Management (EM). Then in FY 2003 and FY 2004, the lab's funding line was moved to the Office of Science accounts and did well (requests of around $8 million). In FY 2005 the budget request eliminated all funding for the lab. The Georgia and South Carolina delegations secured funds in the FY2005 appropriation to reverse this decision. These delegations met with DOE and an agreement was made that the Administration would fund the lab at $4 million in FY2006 with $1 million coming from Science and $3 million coming from DOE. It is with that deal that the path to closing the lab begins. What follows is largely based on the documentary record provided to the Subcommittees by the Department of Energy, SREL and the University of Georgia (UGA).

Negotiations Begin on a New Cooperative Agreement – May 2005:

SREL and UGA's existing cooperative agreement was to expire in July, 2006. In May 2005, the Department hosted a meeting involving then-Assistant Secretary for Congressional and Intergovernmental Affairs, Jill Sigal, other DOE staff, representatives from the University of Georgia and SREL, and representatives from the Georgia and South Carolina delegations. The Department did not want to face an ongoing string of appropriations earmarks and the delegations wanted some agreement that the lab would be supported. That meeting led to an agreement that in FY2006 the Department would provide $4 million (plus some money from the National Nuclear Security Administration—NNSA) and in FY2007 it would provide at least $1 million from EM accounts.

There is disagreement about whether $1 million was a cap or a floor, but there was ample discussion at that meeting about the perceived need for the SRS to use SREL to further their mission. Director Bertsch said that as long as he could pursue money from the programs on the site in addition to EM funding he would be able to keep the lab going. Jill Sigal requested that Dr. Bertsch put together a plan to show how he would do that, and so the day after the meeting, Dr. Bertsch forwarded a business plan that included the work SREL would undertake that was needed by the site. He was never told the plan was unacceptable. In fact, a subsequent memorandum from the Principal Deputy for Environmental Management, Charlie Anderson,

directed the SR site manager for DOE to negotiate a new 5 year cooperative agreement. The memo drew extensively from Dr. Bertsch's business plan. The Director of the SRS, Jeff Allison, then informs Bertsch that he has been directed to negotiate a new cooperative agreement. Bertsch and Allison work on this for over a year.

In March of 2006, even as negotiations continue, Mr. Allison tells Dr. Bertsch to budget for $4 million at SREL from SRS/EM in the FY2007 budget. When they reach agreement on a new cooperative agreement, it provides for $4 million a year from 2007 through 2011 with a 2.5% escalator to allow for inflation. The agreement is sent up to DOE Headquarters for notification in August of 2006 and then again (due to an imperfection in the process) in September 2006. If Headquarters had approved it, Allison would have been authorized to sign the agreement. However, the agreement was never approved at Headquarters.

The Cooperative Agreement is Not Approved and Negotiations Begin Again – September 2006

Instead negotiations are re-opened with new criteria for the cooperative agreement. Deputy Secretary, Clay Sell, was briefed and he determined—supposedly with the approval of the Secretary—that the new agreement would provide $1 million of guaranteed funding in FY2007 plus additional funding on a task-by-task basis.

The initial reaction from SREL was that this offer would lead to the closure of the lab, but the SR Site Director, Jeff Allison, assured SREL their work was needed by the site and he would fund their tasks using funds the site Director has discretion over to award for site-based projects. DOE Headquarters was aware of the assurance provided by Mr. Allison to SREL.

SREL then enters into negotiations once again to secure a new cooperative agreement. From September 2006 through November 2006, Dr. Bertsch was working with SRS assistant managers to identify the projects the site would fund to meet $3 million in identified needs. At the same time, DOE Headquarters officials were scrutinizing the language of the cooperative agreement. Headquarters was insisting on highlighting language that emphasized funds were subject to "need, merit and availability of funds." They also included a provision that any funds could be subject to a "technical peer review." Bertsch believed this would be the kind of review his programs had been through many times in the past—where evaluators look at the sweep, mix and quality of science being done by the lab. However, DOE had something else in mind that was not made clear to the lab until months after the agreement was signed on December 1, 2006.

New Funding Criteria are Established by Headquarters and Funding is Denied – February 2007

In January of this year, Dr. Bertsch and SREL believed they had a new cooperative agreement that made them financially stable. The site director repeatedly assured SRS that they needed the SREL's work and he had the money to fund it (his budget for FY2007 had $4.1 million identified for SREL). However, in February, DOE Headquarters announced there would be a task-by-task peer review process for all of the items that SREL has proposed. The standard for this "peer review" was established by Headquarters—tasks must be deemed "mission critical in FY2007".

As it turns out, almost nothing meets this standard at Environmental Management. EM's primary mission is clean-up. Establishing a metric for a project that requires progress on clean up within six months—because by April or May of 2007, the fiscal year is half-over—ensures that no projects done by a research lab will meet the criteria. On May 7, SREL is informed that only $800,0007 of its proposed $3 million in work would be funded. This process was led by Headquarters in the sense that HQ invented the review process and established the standard. The site was left to carry out the directions of Headquarters.

The Department asserts they were living up to the terms of the cooperative agreement of providing $1 million plus projects deemed to be "needed". The Department also embarks on a campaign of lies and distortions that can be tracked in the letters sent to Mr. Barrow and to the Subcommittee Chairmen. DOE portrays the lab management as having been lazy for not seeking out more non-DOE funding and the University as neglectful of management at the lab. There are rumblings that EM may ask for an IG audit of the books at SREL. As to whether the lab closes or not, the Department says that is entirely up to the University and the Department has nothing to do with that—as if their funding decision and prior promises were irrelevant to the situation at the lab.

Subcommittees of the Committee on Science Begin Their Investigation – May 2007

The Subcommittees sent a letter to DOE within 10 days of Dr. Bertsch receiving notice that funding was not to be continued. The University of Georgia announced it was extending lab personnel's salaries through the end of June—even though DOE money would run out at the end of May. The University decided not to formally close the lab, but 40 people had their last day at the lab on June 29—some who had been there over 20 years. Approximately 30-40 more are being moved back to the University campus in Athens, GA in one capacity or another. The remaining 30-40 will stay on site to carry out work funded through grants already in place from other agencies. The future of the lab and the long-term data sets it maintains is unclear unless DOE restores funding for its work. Without that core funding, the lab cannot continue to operate. Dr. Bertsch was asked to resign by the University at the request of the Secretary of Energy, Mr. Bodman. Bertsch's ten year run as director ended because it appears the Department resented efforts by SREL to explain to the Congress and the public that they were on the edge of being closed.

Witnesses:

Panel One

Representative John Barrow (GA) represents the Georgia communities that border the Savannah River Site.

Panel Two

Dr. Paul Bertsch is the former director of the Savannah River Ecology Laboratory. Dr. Bertsch is a fact witness to every major action regarding this lab from May 2005 until his forced departure in June 2007.

Panel Three

Dr. Jerry Schnoor, University of Iowa, is an expert in sub-surface science and engineering. He is Editor of the *Journal of Environmental Science and Technology* and a member of the National Academy of Engineering. Dr. Schnoor will testify to the quality of the work done at SREL on remediation and sub-surface fate and transport of pollutants

Dr. Ward Whicker, Colorado State University, is a radio-biologist and the winner of the Department of Energy's prestigious Lawrence Prize. He has done research on the Savannah River site and is very familiar with the importance of SREL's research to the wider scientific community and to state regulators. Dr. Whicker will also discuss the importance of the surface science work involving animal populations on the site done by the lab.