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NEPA Task Force
P.O. Box 221150
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August 19, 2002

CQ106

Subject: Comments on NEPA Task Force

Please accept the following comments from Oregon Natural Resources Council concerning the scope of work of the CEQ NEPA Task Force. ONRC is a non-profit public interest conservation group with over 7,000 members. We have been actively monitoring federal agency compliance with environmental laws, especially those applicable for federal forest land, for over 25 years. We have extensive experience with NEPA procedures from a public participation perspective.

We view NEPA as an essential extension of our democratic system, allowing citizens to engage in environmental decision-making with a level informational playing field. NEPA is now such an integral part of federal agency decision-making processes and public expectations about inclusion in such decisions that significant changes to the law or the CEQ regulations would be highly suspect. Technological developments (such as the internet, GIS, and GPS) do however provide us an opportunity to update and improve the implementation of NEPA without changing the underlying legal requirements.

A great step forward would be to create a government-wide NEPA "portal" that would allow people a variety of ways to query the full range of NEPA projects. EPA has a program called "surf your watershed" that gives citizens access to EPA data about their neighborhood (<http://www.epa.gov/surf/>) and there are other similar efforts. At the NEPA portal people could inquire about projects affecting a certain geographic area where they live, or recreate, or they could query about impacts to habitat for a certain species such as mule deer, or coho salmon.

Another general area of improvement would be to make the post-decisional administrative review processes more consistent across the federal bureaucracy. The US Forest Service has a well-developed administrative appeal process. The BLM has an archaic quasi-judicial process that is more geared toward private developers who are trying to protect an investment backed expectation, but it should be reoriented to facilitate public interest appellants who are seeking to protect publicly enjoyed natural resources. The U.S. Fish & Wildlife Service lacks any administrative review procedure, even though they make lots of decisions balancing natural resource conservation and exploitation on federal lands (such as farming and logging on national wildlife refuges).

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TECHNOLOGY AND INFORMATION MANAGEMENT

1. Where do you find data and background studies to either prepare NEPA analyses or to provide input or to review and prepare comments on NEPA analyses?

We get most of our information from reading the NEPA document itself and from our knowledge and experience in the field of ecology, hydrology, and forestry. We often must FOIA analysis files that are essential to our understanding of the NEPA document. EISs with huge appendices and large distributions can be expensive and wasteful, but the background analysis files must be made available on the internet at least.

2. What are the barriers or challenges faced in using information technologies in the NEPA process? What factors should be considered in assessing and validating the quality of the information?

The agencies sometimes refuse to send us hard copies of NEPA documents because they are online. Online availability is great and should be universal, but we often spend a great deal of time with these documents making online perusal impractical, so NEPA documents should always be available in hard copy as well as online.

3. Do you maintain databases and other sources of environmental information for environmental analyses? Are these information sources standing or project specific? Please describe any protocols or standardization efforts that you feel should be utilized in the development and maintenance of these systems.

We maintain a project-specific database of NEPA projects that we are interested in tracking. We find it difficult to integrate timber sale NEPA information from the BLM and US Forest Service. It would be especially useful if these agencies had more similar administrative review processes. The BLM in particular has unhelpful administrative review processes that were obviously designed with ranchers and miners in mind rather than public interest appellants. These procedures should be rewritten to be more user friendly.

Why don't the agencies themselves make more NEPA project databases available to the public. Each national forest and BLM district in Oregon has their own NEPA web page and they are all different. It could be more standardized, but I would not like to see it reduced to a lowest common denominator that was unhelpful.

4. What information management and retrieval tools do you use to access, query, and manipulate data when preparing analyses or reviewing analyses? What are the key functions and characteristics of these systems?

The information we would like to see tracked include: project name, level of NEPA documentation (CE, EA, EIS), current status of project (including post-decision implementation status) descriptive location, watershed/subwatershed location, GPS location, township range location, federal agency proponent, deciding officer, comment

deadline and address, contact name and phone and email, potential NEPA significance criteria (e.g., wetlands, roadless, threatened/endangered/sensitive/special status species, cultural resources, critical habitat, old-growth forest, ACEC, RNA, prime farmland, etc.)

5. What are your preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents (e.g., paper, CD-ROM, web-site, public meeting, radio, television)? Explain the basis for your preferences.

I would like the choice of paper or email notice and paper or internet documentation. The BLM uses the legal notice section of remote rural newspapers to announce final decisions on their timber sales. This does not work for us. We should be able to get email or US mail notification. I often send both hard copies and emails of our NEPA comments. Interactive electronic maps of proposed actions (on the internet) would also be useful.

6. What information management technologies have been particularly effective in communicating with stakeholders about environmental issues and incorporating environmental values into agency planning and decision making (e.g., web sites to gather public input or inform the public about a proposed action or technological tools to manage public comments)? What objections or concerns have been raised concerning the use of tools (e.g., concerns about broad public access)?

Face to face meetings in the field are always best, but the internet has increased our access to information somewhat. We like to send hard copies of our comments so that we can ensure a paper trail.

7. What factors should be considered in balancing public involvement and information security?

INTERAGENCY AND INTERGOVERNMENTAL COLLABORATION

1. What are the characteristics of an effective joint-lead or cooperating agency relationship/process? Provide example(s) and describe the issues resolved and benefits gained, as well as unresolved issues and obstacles. Such examples may include, but are not limited to, differences in agencies' policies, funding limitations, and public perceptions.

Both agencies must have a similar management objective.

2. What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish joint-lead or cooperating agency status?

An example of a bad cooperating agency is a hydro-electric dam relicensing project on Forest Service land in which FERC is documenting and considering certain economic information that the Forest Service is prohibited from considering. The Forest Service has

an obligation under the Northwest Forest Plan to protect aquatic resources under its jurisdiction, but FERC is just interested in maintaining the status quo.

3. *What specific areas should be emphasized during training to facilitate joint-lead and cooperating agency status?*

PROGRAMMATIC ANALYSES AND SUBSEQUENT TIERED DOCUMENTS

1. *What types of issues best lend themselves to programmatic review, and how can they best be addressed in a programmatic analysis to avoid duplication in subsequent tiered analysis?*

Cumulative impact issues that transcend the project must be analyzed in a programmatic manner. Also, "big picture" issues such as "why are we doing this in the first place?" are sometimes best considered at the program level. Example: Strange as it may seem, the Forest Service and BLM have never considered a NEPA alternative involving protection of all the remaining mature and old growth forest along with a comprehensive program of restoration to fix all the problems caused by rapacious clearcutting and road building from the 1950s through 1990's. The Northwest Forest Plan is explicitly designed to maximize logging and providing the minimum required protection to threatened species. Less than 10% of all the logging in the NW is on federal lands, but that's where virtually all the old-growth logging is done. The agencies have never completed a NEPA analysis justifying why this archaic old growth logging program still continues.

ADAPTIVE MANAGEMENT

1. *What factors are considered when deciding to use an adaptive management approach?*

Is there a real commitment to gathering statistically valid monitoring data.

2. *How can environmental impact analyses be structured to consider adaptive management?*

Embed monitoring requirements into the decision. Make project implementation contingent upon funding and completion of monitoring.

3. *What aspects of adaptive management may, or may not, require subsequent NEPA analyses?*

Any reanalysis of the situation must be subject to NEPA. Over time there may be changes in the environmental setting, technology, economic conditions, and public views may change. If the project will change all these factors must be reconsidered.

4. *What factors should be considered (e.g., cost, timing, staffing needs, environmental risks) when determining what monitoring techniques and levels of monitoring intensity*

are appropriate during the implementation of an adaptive management regime? How does this differ from current monitoring activities?

When irreversible effects are possible, such as when threatened and endangered species are involved, the monitoring effort must be absolutely rigorous.

Restoration projects, such as road decommissioning or culvert replacement to allow fish passage, might be subject to a lesser standard than destructive projects such as old-growth timber sales.

LEVEL OF DETAIL INCLUDED IN AGENCIES' PROCEDURES

The public desires detailed procedures or at least clear enough so that the agencies can be held accountable.

DOCUMENTATION FOR PROMULGATING CATEGORICAL EXCLUSIONS

1. What information, data studies, etc., should be required as the basis for establishing a categorical exclusion?

All extraordinary circumstances that could trigger NEPA "significance" must be ruled out.

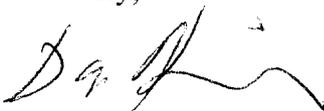
2. What points of comparison could an agency use when reviewing another agency's use of a similar categorical exclusion in order to establish a new categorical exclusion?

3. Are improvements needed in the process that agencies use to establish a new categorical exclusion? If so, please describe them.

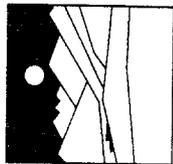
THE STRUCTURE AND DOCUMENTATION OF ENVIRONMENTAL ASSESSMENTS

IMPLEMENTATION PRACTICES THAT WOULD BENEFIT OTHER AGENCIES

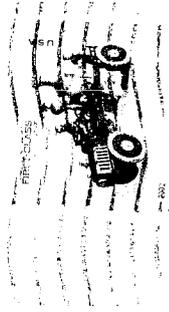
Sincerely,



Doug Heiken



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