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CQ466

September 17, 2002

NEPA Task Force
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VIA FAX AND E-MAIL

To Whom It May Concern:

On behalf of Dairy Producers of New Mexico (DPNM) I am writing to comment on the July 9, 2002 **Federal Register** notice soliciting comments regarding the National Environmental Policy Act (NEPA) process.

We are very pleased to have this opportunity to comment on the NEPA process, as there are many issues surrounding the Act and its implementation that need improvement. Often, actual use and implementation of NEPA fails to meet the letter, intent, or spirit of the law, and instead is used to justify an agenda or pre-determined decision of an agency or an individual.

It is DPNM's opinion that a minimum 90-day comment period should be required for all actions. This will allow people sufficient time to learn about a proposed action, read and research the action, develop ideas and positions, meet with other stakeholders, and submit comments. Shorter comment periods simply do not provide enough time, especially in rural areas where access to computers, let alone the Internet, can be limited. Agencies' documents, style and comment periods vary greatly, making informed public or stakeholder input even more difficult to prepare.

The public and stakeholders often are leery of complex government documents, and are often unfamiliar with the processes an agency followed preparing the subject document. To insure that there is an accountable individual or individuals, at the time of the publication of the draft document, the person(s) responsible for the action should be required to certify that all information included in the document is accurate, reproducible, and true. Information included in NEPA documents is often incorrect, and there is no practical way for a reader to verify information or get it corrected. There needs to be more accountability in the NEPA process, and a legal, enforceable mechanism for documents to be certified as accurate. If any portion(s) of the document is found to be untruthful or inaccurate, the entire document must be republished and the comment period lengthened for a number of days equal to the number of days that the incorrect information has been published.

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An email address must be provided, both in the Federal Register notice and the EA or EIS, for an agency contact person who can answer questions, provide additional information and receive comments. An immediate agency response acknowledging receipt of the comment should be required; an accurate response to the stakeholder or interested public should be made within 5 working days.

NEPA needs to be modified to require that the publication of any action, whether FONSI, EA or EIS, in the **Federal Register** or in the legal notices section of a newspaper of circulation in the project region that includes a full description of the proposed action in simple, easy to understand language. The title within the **Federal Register** should also clearly identify the action. Also, all documents need to be available on the Internet in html or text form.

Meetings that are scheduled, whether they are public meetings designed to take comments, or open house/informational meetings where public comment is not accepted, often do not address the needs of the public. Agency personnel at these meetings need to interact with meeting participants, answer questions, or provide information, rather than following the current format where they will not respond to questions and just listen to what is said. It is a waste of time and resources for people to travel to these meetings if the agency representatives are not prepared or authorized to answer questions, because the information needed by the public is not always what is in the document prepared by the agency.

Proper use of the "no action alternative" needs to be addressed in all NEPA documents, including EAs and EISs. No action means no change, or agency acceptance of current management practices, because making a change to the permitted action would be taking an action. Page 2 – National Environmental Policy Act Process Comments

Below are DPNM's responses to specific questions asked in the **Federal Register** notice:

Section A. Technology, Information Management, and Information Security

1. DPNM represents dairy producers in New Mexico and West Texas, and works to provide input to various agencies on issues that impact producers. For the most part, DPNM relies on making sure we are on agency-specific mailing lists and on legal notices in local newspapers for notification on pending actions, as well as notice from other people active in agricultural and natural resource issues. Keeping all comments and research documentation in a repository for review in Washington or another location gives the impression that the agency is intentionally restricting access to critical data, and forcing citizens to expend large sums of money on travel and lodging to review stacks of documents.
2. Use of information technologies in the NEPA process is problematic as a large number of people, especially in rural parts of the country, do not have

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access to or understand these technologies. If affected stakeholders in rural areas must rely on the Internet during the NEPA process, is likely they will never learn about the proposals.

3. DPNM does not maintain a database on NEPA actions.

4. In reviewing analyses, DPNM mainly review the actual paper document. Our experience, however is that at least one time during each comment period, a critical item with a web address presented in the document is inaccessible, or the item has been moved to another location not easily accessible.

5-6. DPNM supports the continued use of the postal service as the preferred method of receiving documents, as well as the legal notice section of the newspapers, email and a website, are the most effective ways of communicating with the agencies and affected public.

7. There needs to be a balance to insure information required to be submitted under the NEPA process is available, but confidential business information or information that could potentially endanger a project or personnel should not be released.

B. Federal and Inter-Governmental Collaboration

1. & 2.

The most difficult obstacle to overcome in Federal and Inter-Governmental collaboration is classic turf war confrontations between agencies with competing interests or competing constituencies. Open communication must be negotiating rule No. 1. All employees of reviewing agencies must be allowed to put their views in writing, on the record. Some agencies are unwilling to cooperate with certain groups, do not readily share information, and do not publicize information, meetings or actions. The lack of openness has created an atmosphere of distrust, with the NEPA process often being tied up in protests and lawsuits, which does not benefit anyone. Agencies must be required to cooperate with all groups.

3. Training should focus on openness and consensus-building and the acceptance that other points of view are valid, even if that point of view is in conflict with the agencies' or writer's point of view.

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C. Programmatic Analysis and Tiering

1-2. DPNM believes that managing an area for a variety of uses and issues, rather than the single-issue, single-species management that is typically utilized by agencies is the most effective and productive method of management, and so would support the use of multiple working hypotheses programmatic analyses whenever possible.

D. Adaptive Management/Monitoring and Evaluation Plans

In some instances, the use of adaptive management can be very useful to the public, agencies, and the natural resource being researched and managed. Whenever possible, adaptive management should be utilized, but the process must be kept open and the public notified of changes that take place. Additionally, NEPA requires that impacts to affected public, especially socioeconomic impacts, be considered. Before any changes to management plans take place, the potential impacts to businesses, economies and individuals need to be considered at the local level.

Page 3 – National Environmental Policy Act Process Comments

E. Categorical Exclusions

The use of categorical exclusions is a good one, allowing the agencies to decide which issues pertain to a particular proposal, and not requiring them to consider irrelevant issues. The agencies must be restricted to the rules and regulations of that particular agency and of NEPA, and be required not go outside of the

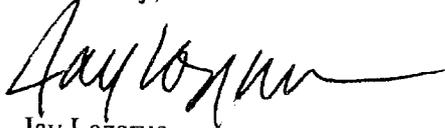
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regulations to further an agency's or individual's agenda that cannot be accommodated within existing regulations.

Thank you in advance for your consideration and I look forward to working with you on this issue.

Sincerely,



Jay Lazarus

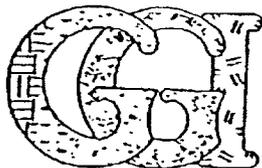
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