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CQ522

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NEPA TASK FORCE
P.O. Box 221150
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Dear Members of the Task Force:

The Regional Council of Rural Counties (RCRC) appreciates the opportunity to comment on the federal agencies' planning and decision-making processes. RCRC is dedicated to representing the collective unique interests of its twenty-eight county membership, providing legislative and regulatory representation at the State and Federal levels, and providing responsible services to its members which will enhance and protect the quality of life in rural California counties. We have been working closely with the California Biodiversity Council to develop a collaborative process that integrates federal, state, and county participants into land use planning. We hope some of our work will be beneficial to the NEPA Task Force.

A. Technology, information management and information security.

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

The laws and regulations governing the agency's action is always a good starting point. The laws and regulations are generally obtainable on web pages. Previous NEPA documents include valuable data and background studies. Re-use of this information maintains continuity between projects. NEPA documents include Land Management Plans, project plans and plans produced by sister agencies such as the BLM, Park Service and Fish and Wildlife Service. Occasionally, research papers will be used that are available from the Forest Service Research web pages.

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

Today, information is readily accessible, manipulated and distributed until it becomes indistinguishable from approved information. The information is frequently either used in the analysis or used to counter the information in the analysis. The challenge is to distinguish "accepted" information from "proposed" information. Only approved information should be used in the analysis or accepted to modify the analysis. Other information, upon disclosure of the degree of acceptance, may be used to acknowledge the uncertainty, but not to base a decision upon.

For example, the Sierra Nevada Ecosystem Project is a collection of some of the best science information on the Sierra's. However, it is also an assemblage of information resulting from a violation of the Federal Advisory Committee Act. The court particularly stated the information would not be used void of public comment. But NEPA project documents are not the best venue to challenge SNEP data, nor is it considered by many NEPA teams to be considered challengeable.

A database of approved information, kept by either the state or federal government would save time in collecting accepted data and would provide consistency among projects. Data would include GIS data, land management plans (both public and private), and peer-reviewed science publications. Public access to the data would allow public comment on the data and provide a uniform standard for data used in NEPA documents. Changes to the database would only be made after appropriate confirmation of its accuracy. A separation must be made between scientific data and public policy.

GIS data is a big challenge. Individuals or groups with GIS capability have a definite advantage. The sophistication of the data makes it difficult for the ordinary citizen to compete against. The challenge is to verify the accuracy of the system, not merely accept it because of its sophistication. A public data system would provide access to the ordinary citizen and protect against faulty private data.

3. Do you maintain databases and other sources of environmental information?

We maintain data that establishes trends. Examples include timber harvest volumes and values, land use designations, acres treated and economic data.

4. What information management and retrieval tools do you use to access, query, and manipulate data when preparing analyses or reviewing analyses?

Computer generated charts, graphs, etc.

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

Paper and CD-ROM are of the greatest value for studying and analyzing the proposal details. Web-sites are valuable in keeping updated on the progress, preliminary review and review of small documents. Additionally, web-pages could be a valuable communications tool for integration of the public in a virtual public forum. While the Forest Service Framework made a great attempt to develop such a forum, we believe a lot of work remains for effective integration. Public meetings have been valuable for general introduction to the project and general updates. Focused meetings can also be informative but to date have generally not been successful as a means of producing meaningful comments.

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 to manage public comments)?

Interactive web sites have great promise for future communications, but additional development is needed. Progressive public meetings and written progress reports associated with an opportunity for public comment have demonstrated the greatest effectiveness.

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

Issues of national security or private property rights should not be disclosed for public involvement. Too frequently, general locations of threatened or endangered species is withheld that directly effects land use decisions. The key is to release sufficient disclosure of the available information so that the public may contribute informed comments to the proposing agency and that the agency may inform the public that the agency did indeed consider environmental concerns in its decisionmaking process.

B. Federal and inter-governmental collaboration.

1. What are the characteristics of an effective joint-lead or cooperating agency relationship/process.

A lead agency must consider a joint-lead or cooperating agency as a partnership, not a stakeholder relationship. The lead agency must want the partnership of the cooperating agency. The cooperating agency should have some expertise or an assigned area of responsibility, not just serve as an advisor. The cooperating agency must accept the mission of the lead agency and the purpose of the project. Without acceptance, interagency committee meetings become a forum for internal debate between what should be partners.

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

Barriers appear chiefly in the form of capacity, a limitation that precludes county, state and federal agencies from full participation. Capacity is limited in three general areas: the ability to respond, confidence and expertise in strategic planning, and support for collaborative efforts. The process itself challenges the capacity of agencies. The Regional Council of Rural Counties and the California Biodiversity Council are working to understand and improve the capacity of federal, state and local governments to enter into collaborative agreements. The following are some of the identified barriers and suggestions for improvement.

County Capacity

Responsiveness

County capacity for responsiveness to requests for local involvement is partially limited by the

public perception toward the project or the agency proposing the project. It is also limited by the availability of county resources and controlled by the prioritization of those resources. Each county is unique in the availability of resources.

Suggestions

1. Shifts in perceptions will occur through successful collaborative efforts.
2. Cooperative relationships between agencies and local governments could be strengthened by frequent, informal meetings such as regular breakfast meetings.
3. Increases in technical, scientific and personnel capacities could occur through the use of non-profit organizations to supply the needed resources, CALFED funding or grants to assist the counties in hiring additional staff, establishment of a state or federal resource agencies "loan" program similar to the legislative loan program that would provide agency employees with county experience as they provide expertise to county governments, and encourage the university schools to adopt a rural county for planning assistance as is done for urban counties.
4. Inventory county resources and develop an inter-county sharing program.
5. Designate a county liaison to coordinate county involvement in state and federal planning.
6. Utilize third party non-profit organizations to 1) obtain federal, state or foundation funding for one or more segments of the planning project, 2) act as facilitator for research, and 3) obtain funding for collaborative participation.

Strategic Planning

Many counties believe county capacity for strategic planning is controlled by strategic planning on federal lands especially where federal lands include the majority of the county area. Inconsistencies in implementing federal strategic plans reduce county confidences. Counties are dependent on federal planners to estimate the effects of the federal strategic plans on the county. Because most federal strategic plans are developed with political considerations, an investment in political capital is required.

Suggestions

1. Promote and encourage local expertise to participate in strategic planning.
2. Apply for cooperating agency status at the commencement of projects to become part of the planning team.
3. Develop county expertise in one or more segments of strategic planning for participation as cooperating agency.

Collaboration Support

Collaborative success is dependent upon the formation of a fair and equitable negotiation forum. Early integration with the planning agency can foster feelings of fairness and equality, as can a foundation of science. Due in part to poor past experiences, agencies are often reluctant to expend significant resources to engage community participation. Significant financial support is required for facilities, facilitators, and participants. Collaborative groups generally produce emotional responses that require translation into science-based analyses.

Suggestions

1. Develop a blueprint for collaborative forums.

2. Develop financial support for collaborative forums.
3. Develop a translation mechanism to incorporate collaborative results.
4. Consider county lead in collaborative forums.

State and Federal Capacity

Responsiveness

Like county capacity, State and Federal capacity for responsiveness is limited by agency perceptions. The number of simultaneous planning projects also influences the ability to meet timelines and limits agency responsiveness.

Suggestions

1. Shifts in perceptions will occur through successful collaborative efforts.
2. Initial improvements in attitude could be made through frequent, informal meetings such as regular breakfast meetings.
3. Develop interagency partnerships that complement rather than compete.
4. Complete projects on time.
5. Avoid repetitive planning.

Strategic Planning

State and particularly federal agencies are caught in a seemingly endless round of strategic planning. Inconsistencies, uncertainties, short-term longevity and political connections make it difficult for county investments in local participation but increase the county impact. Long-term strategic plans lose credibility when dependent on short-term funding.

Suggestions

1. Agency recognition of county authority.
2. Consider county general plans in strategic planning.
3. Integrate public and private strategic plans.
4. Develop a master strategic plan and follow it.
5. Designate an agency liaison to counties.
6. Agencies must become an advocate for their plans regardless of political ramifications

Collaboration Support

Support for collaborative groups must be demonstrated at the outset of project development. County confidence in the NEPA, NFMA and CEQA processes is not sufficient to provide an impression of a fair and equitable process. The opportunity for meaningful collaborative engagements must be designed and implemented. Frustrating to collaborative groups, agencies lack the ability to commit to planning direction due to political controls.

Suggestions

1. Design collaborative forums for meaningful engagement.
2. Provide opportunities for informative dialogs between collaborative groups and experts.
3. Recognize groups that represent the county as partners, not NEPA or CEQA requirements.
4. Organize community leaders' breakfasts – building relationships.

5. Provide for collaborative on-the-ground meetings.
6. Use collaborative forums as team members, not sounding boards.
7. Consider assigning county agencies to design and provide public forums.
8. Define specific objectives that recognize equal distribution of pain to avoid an end run.

Process

Responsiveness

Modifications to the process can similarly improve the ability of rural counties to respond to state and federal land use planning. Consideration of county and agency capacities can do much to alter participation.

Suggestions

1. Consult counties when setting timelines.
2. Consider capacities before engaging in multiple projects.
3. Provide sufficient lead-time for participation requests.
4. Establish results oriented not process oriented processes.

Strategic Planning

Strategic planning is a joint concern. When major landowners revise strategic plans, it affects county and business planning. The effects are felt from the moment the intention is announced until the strategic plans are completed. Expediency benefits all parties from reduced time commitments for participants to a return in certainty for businesses. Procedures must unite participants toward achievement of the agency's objective.

Suggestions

1. Participants must adopt the proposing agency mission before applying its own agency focus.
2. Adopt resource planning elements from county general plans
3. Integrate multi-stakeholder groups at initial bureaucratic processes and mandates

Collaboration Support

The planning process lacks support for effective collaboration. Current collaborative forums are "add-hoc" processes. The process must invite collaborative participation through incorporation of collaborative results. Meaningful contributions require education on current scientific developments.

Suggestions

1. Increase, validate and provide credibility for public participation.
 2. Translate then incorporate emotional language.
 3. Provide education as a key support for collaborative processes.
 4. Focus collaborative forums on timely elements throughout the planning process, rather than the overall project at one setting.
3. What specific areas should be emphasized during training to facilitate joint-lead and

cooperating agency status?

Acceptance by all participants of the mission of the lead agency and the purpose of the project, appropriate assignments for all participants, and development of positive relationships before a crisis is determined.

C. Programmatic analysis and tiering.

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?

Programmatic review should be considered when one document can reduce or clarify subsequent documents. For example, a programmatic review of local conditions and past experiences could authorize a categorical exclusion for future local activities. Consider a programmatic document for salvage, fuel reduction and small tree removal, prescribed fire, or grazing permits. Years of experience and hundreds of environmental documents should provide a commonality of conditions that always conclude a finding of no significant effect. Assessed at the local level (national forest or district) provides greater flexibility and credibility than assessments across the entire nation.

Land management plans are programmatic documents to which site specific documents are tiered. However, land management plans are unofficially but effectively amended annually with the passage of appropriations bills. A localized programmatic document to reflect budgetary direction could simplify tiered documents. The purpose of the tiered documents would be changed from alternatives for managing the natural resources to alternative methods of implementing Congressional direction. Such change would subsequently change the nature of administrative and judicial challenges.

2. Please provide examples of how programmatic analyses have been used to develop, maintain and strengthen environmental systems, and examples of how an existing environmental management system can facilitate and strengthen NEPA analyses.

During the late 1980's, California central Sierra forests were experiencing significant insect epidemics. The Eldorado National Forest conducted a programmatic EIS for insect infestations that considerably reduced future NEPA time on individual projects. They became the only forest in Region 5 that met the Congressional expectations.

D. Adaptive management.

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

The degree of risk and uncertainty, and the ability to timely obtain sufficient knowledge through conventional approaches. We have been studying the spotted owl for over a decade and still cannot define its habitat or the effect of management activities. The impact of the uncertainties is detrimental to the owl, forest and communities. Resolution of the uncertainties surrounding

the spotted owl would be of great benefit. Adaptive management studies could greatly decrease the resolution time.

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

The environmental impact analysis would discuss and evaluate the environmental effects of the range of likely consequences resulting from the proposed adaptive management project. Appropriate mitigation would be identified for areas of potential significant impacts and mitigation invoked if monitoring indicated a significant impact resulted.

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

A subsequent NEPA documents may be appropriate if corrective action was desired do to an unexpected consequence. Corrective action could include abandonment of part or all of the original project and substitution of an alternative project.

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?

Adaptive management is a research experiment. Monitoring should involve scientists and a collaborative group of interested agencies and parties. A collaborative monitoring group will enable more quickly invocation of appropriate mitigation measures or corrective actions. Environmental risks, urgency for solutions, community involvement and cost should be considered when developing a monitoring plan.

E. Categorical exclusions

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

Categorical exclusions, as defined by the CEQ is the result of an analysis that finds a certain category of activities, based upon a demonstration in the past and an analysis of the future, that the category of activities will not individually or cumulatively result in a significant impact on the human environment. By definition, then, past environmental documents should be evaluated and categorized by activity to determine if an action always results in a finding of no significant impact. The evidence must be comprehensive and compelling to determine the conditions that will always have a non-significant impact. The criteria should consider a quantity of documents over a number of years. We believe the greatest flexibility exists when categorical exclusions are considered for local areas.

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?

The proximity of the activities to each other, the frequency of the activities, the cumulative

effects, the extent of the area the categorical exclusions apply, the degree of controversy and the environmental conditions would all be important comparisons.

3. Are improvements needed in the process that agencies use to establish a new categorical exclusion?

Agencies have been reluctant to use categorical exclusions except over a broad area. The last category exclusion was developed for the entire nation, although the evidence indicated green timber harvests under 1000 mbf or salvage under 2000 mbf in the West would not result in a significant impact compared to the East in which under 250 mbf green or 1000 mbf salvage would not result in a significant impact. Yosemite National Park fuel reduction activities for example, have been authorized under a categorical exclusion unique to Yosemite, rather than all park service lands. Agencies, especially the Forest Service, must improve the process to consider categorical exclusions on a local basis.

F. Additional areas for consideration

1. A primary purpose of NEPA is to establish a process that assures full disclosure of potential significant impacts for the benefit of the decision maker and concerned public. A return to that focus would be helpful. Too often, documents are cluttered with information that is known to not have a significant impact. Valuable time and expenses are spent including information of little environmental consequence. Required information should be limited to that which, either individually or collectively may indicate the proposed action will have a significant effect.

2. A major flaw in the NEPA process is the failure to integrate agency consultations prior to the public involvement. Alternatives and appropriate mitigation measures are frequently developed through public involvement processes, only to be overturned by subsequent interagency consultations. Such post development measures leave the public feeling void of meaningful involvement. The purpose of the interagency consultation is to develop "reasonable and prudent measures". How better to determine whether the measures are in fact reasonable and prudent than by the affected public. The listing of threatened and endangered species, designation of critical habitat and development of recovery plans all include public involvement. It is inconsistent to exclude the public from the consultation process that implements listing decisions.

The Regional Council of Rural Counties extends an offer to assist the Task Force in its mission to seek ways to improve and modernize NEPA analyses and documentation and to foster improved coordination among all levels of government and the public. As we complete our similar joint effort with the California Biodiversity Counsel, we will forward our recommendations to the Task Force. In the meantime, if we may be of any assistance, please do not hesitate to call.

Sincerely,

John

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