Facilitation of Stakeholder Input in the National Environmental Policy Act Process

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ABSTRACT

Use of effective communication techniques can greatly facilitate the process of receiving stakeholder input.

Section 102(2) of the National Environmental Policy Act of 1969, as amended (NEPA) offers a chance for members of the public to be involved in the Federal agency decision making process. It requires a federal agency to consider the impacts of their undertaking on many resources areas to include social, cultural, economic and natural environments. Regulation for implementing NEPA Section 102(2) is provided in the Council on Environmental Quality's (CEQ's) regulations in the Code of Federal Regulations (CFR), Title 40, Part 1500 (40 CFR 1500). CEQ's regulation at 40 CFR 1500.2(d) requires federal agencies to encourage and facilitate public involvement in decisions which affect the quality of the human environment. In addition to being mandated by federal regulation, these interactions can be beneficial to the preparing agency during the gathering and assessing information phase of the federal action. This paper looks at: the role and importance of stakeholder interactions and input, the potential benefits of information exchanges, and various techniques to enhance communication among the participating stakeholders. To illustrate these points, real world examples are presented. Additionally, how current and future environmental reviews can benefit from using these techniques, throughout the NEPA process.

INTRODUCTION

When the federal government undertakes an action they are required by law to comply with the National Environmental Policy Act of 1969, as amended, (NEPA). Actions include new and continuing activities that tend to fall into one of the following categories: 1. Adoption of official policy, 2. Adoption of formal plans, 3. Adoption of programs, 4. Approval of specific projects (40 CFR 1508.18). Prior to approving an action and to comply with NEPA the government must complete an assessment of the actions environmental impacts. Regulation for implementing NEPA is provided in the Council on Environmental Quality's (CEQ's) regulations in the Code of Federal Regulations (CFR), Title 40, Part 1500. There are two major purposes for completing a NEPA review; those are to make better informed decisions, and to involve the potentially affected parties, or Stakeholders:

> 40CFR1500.1(c) states that "The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment."
>
> 40 CFR 1500.2(d) states that Federal agencies shall to the fullest extent possible "Encourage and facilitate public involvement in decisions which affect the quality of the human environment."

The federal agency principally responsible for approving the action (lead agency) must evaluate the action or project and determine the most appropriate method to document their assessment. Commonly written documents are Categorical Exclusions (CATX), Environmental Assessments (EA), Environmental Impact Statements (EIS), and Generic Environmental Impact Statements (GEIS). Table 1 provides a brief definition of each of these documents. The choice of documentation depends on many project factors including; scope of the project, complexity, potential impacts, and public interest.

Table 1

NEPA Document	Abbreviation	Definition
Categorical Exclusion	CATX	Category of actions which do not individually or cumulatively have a significant effect on the human environment.
Environmental Assessment	EA	Intended to be a concise document that (1) briefly provides sufficient evidence and analysis for determining whether to prepare an EIS of a FONSI. (2) Aids compliance with NEPA when no EIS is necessary (3) Facilitate preparation of an EIS if one is necessary.
Finding of no Environmental impact	FONSI	A brief presentation of the reasons why an action will not have a significant effect on the human environment and for which an EIS is therefore will not be prepared.
Environmental Impact Statement	EIS	A detailed written statement as required by Section 102(2)(C) of the NEPA
Generic Environmental Impact Statement	GEIS	Prepared by agencies on broad actions that have relevant similarities* 1502.4(c)2. Tiering from these documents is done when a subsequent narrower statements or environmental analysis is prepared.
Record of Decision	ROD	A concise public record of the decision. It should state the decision, identify alternatives considered and state whether all practicable means to avoid or minimize environmental harm have been adopted and if not, why they were not. 1505.2

CEQ NEPA Regulations, 40 CFR 1508.4, 1508.9, 1508.13, 1508.11

If an action does not fit into a CATX than an EA can help determine if the subject action can reach a Finding of No Significant Action (FONSI) or if there is a significant impact that an EIS or GEIS will need to be written. Not all actions will require scoping, public outreach or consultation with other federal agencies, tribes, or other stakeholders. That is not to say that the decision making would not benefit from this input but that the law does not require this outreach and communication with the various stakeholders.

Stakeholders often have a better understanding of the expected impacts to the surrounding area, particularly if they live near the project or have ancestors who had lived in the area. In most cases the lead agency is physically and emotionally removed from the area, lacking any connection to the site other than the action before them and therefore may not be fully aware of its impact. The proposed project may change the local population's traditionally or culturally significant activities or have unwelcome visual and physical impacts to the area. Therefore this local knowledge can help the lead agency make a better decision.

As part of the NEPA process the lead agency needs to identify interested stakeholders and communicate with them regarding the action. This can be accomplished by reaching out to individuals and groups in the project region and by contacting parties identified during other undertakings similar in scope and/or geography. The lead agency's understanding of the project impacts will greatly benefit from performing a full and thorough outreach. Stakeholders who are located in the projects region of influence will have a personal stake in the outcome of the action before the federal agency. The stakeholders will also have intimate knowledge of the community and have useful input to the decision making process. Thus it is critical that the lead agency communicate effectively. Effective communication occurs through both speaking and listening. Often we are so worried about what we have to say that we forget to listen! An Irish proverb said "God gave us two ears and one mouth, so we ought to listen twice as much as we speak." This back and forth, speak and listen, is a vital part of effective communication. Equally important is the ability to connect with the stakeholders. You may be an expert in your field but if you do not know how to connect with your audience, little will be communicated. There are many techniques that can be employed to facilitate more effective communication. This paper will examine some methods and techniques that can enhance the effectiveness of your communication, specifically during the NEPA process.

DISCUSSION

Stakeholders take many forms including; members of the public (both individuals and groups), business owners, Non-Governmental Organizations (NGO's), and/or local, state and federal governments. Throughout this document they will generally be referred to as stakeholders. Communication with stakeholders during the NEPA process is critical to fulfilling the intent of NEPA and for gaining sufficient knowledge to make the best decision regarding the action. Outreach to stakeholders can be accomplished in many ways, for instance; letters, phone calls, face to face meetings, and teleconferences. Each of these methods offers both benefits and challenges to accomplish the goals of NEPA.

Often a letter is the first communication from the lead agency. This letter will briefly explain the project and request the recipient provide any information they have regarding the project area. This initial letter may also offer an opportunity to consult on the project. Some stakeholders will be known to you from other similar or related projects and you may therefore have their contact information. For government or other stakeholders whose contact information is unknown the internet is a great resource for finding names and addresses. When sending a letter it is often hard to determine if your letter made it to the intended recipient. To help verify that the intended recipient is still located at the address one can use a certified letter. If the letter cannot be signed for it is returned to the sender. The returned letter serves as an alert to the sender that the stakeholder will need to be reached by another means. Some recipients may not respond to this letter, due to lack of interest or lack of time to work on the project. For those who indicate a desire for further project details or with a desire to consult, additional communication should occur.

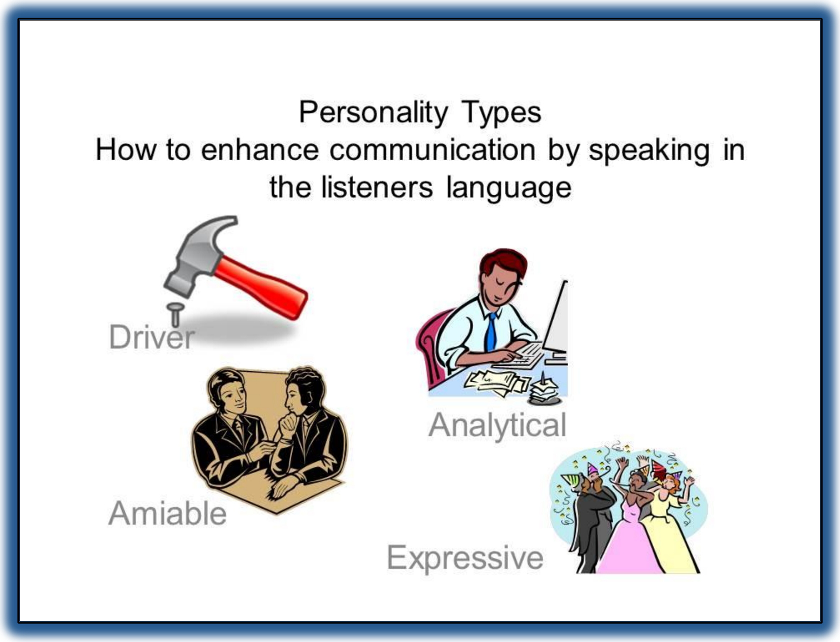
Although additional letters can be sent at this point, a phone call can be a more effective means to begin the relationship building, which is important for clear and effective communications. During the call it is important to listen to the interests and concerns of the individual and their organization. Determine their level of understanding and familiarity with any of the technical aspects of the proposed project. Take notes that you can refer to later or use to develop information slides for a future webinar or face to face meeting. In some instances it may take many phone calls to answer questions and concerns and create the necessary rapport to foster an effective working relationship.

If there are a large number of stakeholders wanting to participate and individual calls are not possible hosting a conference call/webinar type meeting can be useful. During this type of meeting, details of the project can be shared with many individuals, limiting travel expense for the participants. Some individuals will gather enough information during these sessions to satisfy their interest. These types of time and financial efficiencies should be promoted as long as they do not sacrifice quality and effectiveness of communication. So while webinars can be a very useful tool if the number of participants is too great to provide more individual interactions, they will not be the best tool for developing relationships. Multiple public meetings, both webinar and face to face, can provide an opportunity for more participants to express their concerns. These meetings will also provide more opportunity to meet individual stakeholders and hear their concerns. The stakeholder will also have an opportunity to learn more about their role in the NEPA process.

These meetings can become emotionally charged, as many participants will be passionate about the project. A good rule of thumb to consider during emotional situations is *that when emotions go up intelligence goes down*. People may behave in unpredictable ways that are counterproductive to the process. It is also hard to learn and communicate effectively when you are upset or excited about something. When people trust one another and have developed a relationship of trust and respect, they are more likely to listen to one another. This was seen recently in a highly contentious EIS process, the initial public meetings were very emotional. Stakeholders were sharing their views but their attitude was very argumentative, the facilitator spent a good deal of time redirecting and calming the participants. During subsequent meetings the interactions were calmer, a more open dialog was possible and ultimately a better understanding was reached by the participants. While the stakeholders were still passionate and many of their concerns had not changed they had more confidence and trust that the lead agency was hearing their concerns. A better exchange leads to better understanding which in turn leads to better decision making. Rewording the rule of thumb above, *when emotions are low intelligence and understanding goes up*.

Another key component of effective meetings is to be sure that all participants have access to the presenter's slides or the technology to view them. This is particularly true for a webinar where participants may not be in the same room. For this type of meeting it is useful to post slides on a project-specific web page or email the presentation slides ahead of time so that all participants can view them, even if the technology fails. Backup communications will help insure that you have the greatest number of satisfied participants.

The development of slides, for any type of meeting or training, is critical to communicating your message. One effective style taught by Penn State staff is the "Assertion-Evidence" (AE) method. This presentation style was developed especially for technical discussions, and works quite well for presenting complex ideas to stakeholders. The AE approach structures each slide around a key message, stated in two sentences or less, and supported by graphics rather than bullet based text. The graphics are not designed to provide talking points for the speaker but are designed to help the audience understand and remember the content of the speaker's presentation. If there are specifics or technical graphics that would be beneficial for the audience, a single page of information can be provided after the presentation. This method has proven more effective, more focused and better remembered than bullet based slides (American Society for Engineering Education, 2011). A sample slide is provided below and additional information can be found on this website; http://www.writing.engr.psu.edu/slides.html .



This slide represents a discussion on personality styles as described by Peter Urs Bender. Each of these images represents a particular characteristic of the personality type. A discussion for this slide would cover the four styles and a detailed description of how each personality type has a preferred style of communication and how to speak effectively to each type. Very briefly:

Driver	Talk about results, be brief and to the point, they are in a hurry
Amiable	Don't push or rush, speak calmly to them, listen well
Expressive	Be enthusiastic and relational, have fun, talk about them
Analytical	Provide all of the details, be systematic and deliberate

As you can see in a large audience it would be very hard to present to all of the personality styles at one time, but by being aware you can cover each style during a presentation. The audience may not remember all of the details of each communication style but they will surely remember that the driver sees the world as a "nail" and they are the "hammer" that gets the job done!

These interesting graphics are retained differently than bullets followed by text on a slide. This method is also used by the Rosetta Stone language program. A picture of an object is projected on the screen and then the name of that object is provided in a written and oral form of the language that is being studied. The visual cue helps the listener to recall more of the language than just studying a list of vocabulary words.

Another technique to enhance communication is to make use of small face to face meetings geared toward specific groups, to include local governments and organizations. A small group meeting creates a great environment for a more open dialog. Individuals are often more willing to ask questions and participate in one-on-one or small group discussions. It is also a great opportunity to connect, build relationships and hear concerns regarding the project. These meetings can be time consuming and costly and that may be why they are held sparingly. A good way to create cost savings and time efficiencies is to combine these smaller public meetings or government to government meetings with a site visit trip or a large public meeting. These face-to-face meetings allow both parties to connect with the ever important human element rather than just the project at hand.

One commonality for all federal actions is that they involve people, and people require you to connect to have a successful exchange. This connection can be easy or challenging depending on a multitude of factors but all projects will benefit from developing relationships between people. Some projects will be challenging no matter how relational you are due to the subject of your exchange and the many differing opinions on the impacts and benefits. This is a key reason why the people involved need to connect, not just communicate.

In John Maxwell's book "Everyone Communicates Few Connect" he makes a great observation that not all communications guarantees connection. It is this connection that will help projects to progress more smoothly. This is true even for those highly contentious and frustrating projects. When individuals or groups develop a connection, or rapport, it is much easier to communicate, to express ones ideas and to be understood. He uses the example of having a dropped phone call, to illustrate the concept of knowing when you have lost the "connection" during a conversation. I am sure that all have seen this happen to someone, maybe even to ourselves, that moment when you can feel the listener has tuned out. It is an almost palpable feeling in the room, when information is no longer being conveyed even though lips are still moving! He provides lists of the many signs that show you have made a connection.

Following are a few that are particularly useful when coordinating a group effort, like the NEPA process;

Extra Effort- people go the extra mile,

Unguarded Openness –they demonstrate trust,

Increased Communication – they express themselves more readily.

These three are particularly interesting to note because they are so helpful when working through a lengthy process with diverse groups of individuals. When all participants are putting forth the extra effort, more can be accomplished in less time. A trusting relationship is critical to moving forward with any project, as without trust few are willing to step out and share what they want or to demonstrate patience with the ongoing process. If all involved are openly sharing their needs and concerns the NEPA process can more easily move forward. New concerns may come to light during the NEPA process but they should not go unspoken due to lack of connection. During a recent project, where the stakeholders and lead agency had developed trust and connection, the benefits of this relationship were seen. Late in the NEPA process a stakeholder raised a new concern. Because of their relationship, the issue was quickly and effectively addressed, causing little delay to the NEPA process. Their connection allowed for many informal conversations, facilitating swift identification of the issue and a mutually acceptable resolution. Although the stakeholder's opinion of the overall project had not changed, their understanding of the process and their role in that process had, allowing for better decision making during the NEPA process. Having a trusting relationship will often allow for more involved discussions and potentially greater compromise and change in the planned action. I have seen this willingness to compromise numerous times, particularly if the change has no commercial impact on the project but might save a significant NEPA resource area.

Listening, and then demonstrating that you were listening, is an important first step to developing relationships. Resist deciding what someone is asking before they are finished speaking. You will be less likely to interrupt them and you will hear their entire thought. Allow your focus to remain with the person speaking and on what they are saying. This can be very challenging, because as the individual shares their thoughts, your mind is going to struggle to capture the information and fit it into your own familiar mental categories. This mental cataloging can sometimes lead to misinterpretation of what is being asked, leaving the stakeholder feeling unheard. Thank the participant for their question, then summarize your understanding of what they said and then provide them your response. It is okay to stop and think before you answer, this can indicate a thoughtful examination of their question, rather than providing a canned response to what you thought they were trying to communicate. Address the issue to the best of your ability or find someone who can, hopefully someone present. If no one present can help, be sure to follow up at a later date with someone who can provide an answer. Another effective way to develop your relationship is to ask questions and then thoughtfully listen to the answers. While you may know many of the concerns that will be raised, soliciting and then listening to their concerns continues to build trust between the stakeholder and the lead agency. The gathering of these details will ultimately provide the best information for your draft environmental document.

The draft environmental document takes into consideration all information the lead agency has gathered during the scoping and review process. Many documents are studied, comments from meetings compiled, surveys and site visits of the affected area may also be completed. Much of the information and data gathered is highly technical or complex in nature. These complexities make it challenging to convey information in clear, concise, plain language that will continue to facilitate the NEPA process. It is, however, a very an important piece in the process of engaging the stakeholder. The decision maker uses this draft document as the basis for their final decision regarding the project. This draft document is also provided to the public for their comments. Comments on the draft document are often the last opportunity for the stakeholders to weigh in on the project, so it is very important that they understand the written document. The comments provided are reviewed and addressed by the lead agency in the final environmental document. Although the issuance of the final assessment brings the NEPA process to an end, the building of relationship between the agency and the stakeholder should not.

CONCLUSION:

Many strategies can be used successfully to enhance the process of stakeholder outreach. The process of decision making is certainly made more complicated by the many various ideas and opinions, emotions, beliefs and practices brought to light by the numerous stakeholders. But this examination, and struggle in the process, can facilitate better decision making. Meaningful public involvement is central to good decision making. It can inform the decision maker of unforeseen consequences and provide local knowledge that can only be given by those stakeholders who are intimately involved. A fundamental objective of public involvement is to ensure that the concerns and issues of everyone with a "stake in the game" are identified and their concerns heard. Not all concerns that are heard can be accommodated but they should still be evaluated and recorded.

There are many techniques one can use to enhance communication during the NEPA process. On a most basic level, one should keep an open mind, proceed without an agenda, *listen* more talk less, develop relationships and trust early in the process. One should become familiar with stakeholder concerns and make an effort to understand their particular culture. Take an interest in those with whom you are working. Be more interested in their story than yours, be engaged, ask questions and then be quiet and listen. This interest will provide a foundation for the trust and relationship necessary to have a positive and productive NEPA process

When meeting with stakeholders, select presenters carefully, some individuals are more effective communicators than others. This may be a good time to employ a facilitator to assist with running the meeting. A facilitator can remove much of the emotion that exists between the stakeholder and the lead agency. You have only one chance to make a first impression, be sure it is a good one. This first impression can lay a foundation for a great working relationship –or not! Playing catch up during the process of building trust and relationship almost certainly guarantees a longer NEPA process. More time will be spent learning stakeholders concerns and their desired outcome. When people trust each another they will more openly discuss their concerns and believe that their interests are being looked after. Trust also provides an environment where misunderstandings are less likely to happen and when they do can be more quickly resolved.

The lead agency completing a NEPA process needs to understand people, not just the mechanics of NEPA and the specifics of a proposed project. To gain this understanding the lead agency needs to foster relationships with their stakeholders. These relationships can continue to grow and develop even when there is not a specific action being taken. Making yourself available to stakeholders and doing your best to answer their questions will continue to encourage and facilitate their positive involvement in the NEPA process.

References:

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Penn State web page http://www.writing.engr.psu.edu/slides.html

Peter Urs Bender *Personality quiz: Personality types* web page http://www.peterursbender.com/quiz/all.html