

**Borderland Management Taskforces
and
U.S. Customs and Border Protection Liaison Programs:
Vehicles for Greater NEPA Public Involvement?**

By
Elaine M. Koerner
U.S. Border Patrol
Washington, D.C.
September 19, 2012

Capstone paper submitted in partial fulfillment of the
Requirements for the Certificate in NEPA
Duke Environmental Leadership Program
Nicholas School of the Environment at
Duke University

2012

The opinions expressed in this document are those of the writer and are not endorsed by U.S. Customs and Border Protection or the U.S. Government.

“One of the primary goals of the National Environmental Policy Act (NEPA) is to encourage meaningful public input and involvement in the process of evaluating the environmental impacts of proposed federal actions,”¹ according to the President’s Council on Environmental Quality (CEQ).

Reaching this goal can be a challenge anywhere within the United States, but in U.S. border communities it can be particularly challenging. Along the southwest border in particular, security concerns too often continue to be pitted against environmental concerns, suggesting a choice is required. Pockets of poverty,² language barriers, and the national lack of resolution on immigration issues can divert public attention away from environmental issues. As a result, providing meaningful input into NEPA processes can all too easily become a low priority for the public.

The northern border has its own set of challenges. Here, distances between public meeting sites can be vast, and harsh winter conditions in some areas further impede participation at public meetings set up to provide information about federal projects with potential environmental impacts. In addition, given the perceived abundance of undisturbed natural resources, there may be a sense from some that individual proposed federal actions will have a negligible negative effect. Although non-governmental organizations focused on the preservation of particular species such as the grizzly bear³ along the northern border of Idaho and Washington State continue to gain media attention, overarching concerns such as jobs⁴ often continue to trump concerns about potential environmental impacts of proposed federal actions.

Two border-specific governmental communication mechanisms have been created in recent years that provide the opportunity to indirectly increase public input into the NEPA process: intergovernmental groups called Borderlands Management Taskforces (BMTFs); and the uniformed personnel within U.S. Customs and Border Protection (CBP) who serve as Liaisons to specific components of the stakeholder spectrum. These liaison positions include Public Lands Liaison Agents, Tribal Liaisons, and Border Community Liaisons, as well as more specialized liaison positions such as Rancher Liaison.

Both of these communications mechanisms were created primarily to promote intergovernmental collaboration for mutual mission success, leverage resources to the betterment of all participating groups, and resolve problems at the local level. However, their presence in border communities positions them well to also promote communication on a variety of associated developments – including federal actions that trigger NEPA analyses with accompanying public involvement. The discussion that follows will provide more details about each mechanism and explore their broader potential to be harnessed for NEPA public involvement purposes.

BORDERLAND MANAGEMENT TASKFORCES

Borderland Management Taskforces (BMTFs) are intergovernmental groups that meet on a regular basis at various locations along the borders of the United States. Meetings are co-chaired by a Border Patrol (BP) agent based in the local BP field office, along with a counterpart official from either the U.S. Department of the Interior (DOI) or the U.S. Forest Service, depending upon which agency has the majority of public land in the area.

BMTFs operate within the geographical boundaries of individual Border Patrol sectors (geographic regions), and thus carry the name of that sector, e.g., Tucson Sector BMTF, Houlton Sector BMTF, etc. Membership is made up of representatives from tribal, local, state, and federal governmental organizations. Sometimes Congressional staffers attend, and non-governmental organizations can be invited to take part in specific workgroups.

The BMTF charter describes the mission as follows: “...facilitate an intergovernmental forum for cooperative problem-solving on common issues related to the United States international border. The primary mission is to address border security, human safety, and natural and cultural resource protection through shared resources, information, communication, problem-solving, standardization, and training.” The goal of each BMTF is to “create a positive intergovernmental working relationship and foster support among agencies charged with border responsibilities.”⁵

At first glance, because BMTFs are government-only groups, they may appear to have little relevance to NEPA and its goal of encouraging “meaningful public input and

involvement in the process of evaluating the environmental impacts of proposed federal actions.” However, such is not the case. BMTFs already are contributing to this goal in their current form, albeit primarily indirectly, and they could play an even stronger role with greater internal communication and stronger coordination at the headquarters level of the three lead agencies - Border Patrol, DOI, and the Forest Service.

Evolution

In 2000, the first BMTF was created in the Border Patrol’s Tucson Sector in Arizona.⁶ Tensions had been building among federal agencies in the area, especially the Border Patrol, DOI, and the Forest Service, and for understandable reasons.

Roughly 60 percent of the border miles within the Tucson Sector of the Border Patrol consists of public land, the vast majority of this land managed by DOI. Examples include Cabeza Prieta National Wildlife Refuge, Organ Pipe Cactus National Monument, and Buenos Aires National Wildlife Refuge. Forest Service presence is smaller but significant – the 1,780,000-acre Coronado National Forest.

By about 2000, following the success of several Border Patrol urban initiatives in the 1990s, illegal cross-border traffic along the southwest border had shifted to more remote areas between Ports of Entry, including the vast federal lands within the Tucson Sector. In fact, records show that there were nearly 617,000 arrests in that sector alone during FY 2000. That same year, southwest border-wide statistics put the number of illegal crossings at more than a million.

The spike in illegal crossers on public lands, combined with an increase in Border Patrol presence on those same lands charged with apprehending the illegal cross-border violators, posed enormous challenges for all of the agencies. Lack of communication, combined with many new faces on the scene, only exacerbated interagency tensions. Thus, creation of a BMTF filled a critical need to move slowly but steadily from interagency conflict to increased interagency collaboration.

The Tucson Sector BMTF quickly proved its worth, and other BMTFs soon sprang up in other southwest Border Patrol sectors. Much like Tucson, these early meetings also focused first on building basic constructive communication between

federal agencies and working together to solve particular site-specific problems. With the southwest border BMTFs firmly in place, northern and coastal Border Patrol sectors began to follow suit and, in collaboration with DOI and the Forest Service, create their own BMTFs.

As of August 15, 2012, a total of 14 BMTFs were holding meetings on a regular basis along U.S. borders. Six of them meet at locations on the northern border, seven on the southwest border, and one was taking place in a coastal sector. In several cases, a single BMTF incorporates two Border Patrol sectors.

Several BMTFs continue to work through immediate, complex, sometimes contentious interagency issues. For many others, however, the focus has evolved more and more toward cross-agency communication and identifying opportunities for resource leveraging. The need and benefits of stronger interagency communication was highlighted by the General Accounting Office in a November 2010 report : *“Information sharing and communication among DHS, DOI, and USDA have increased in recent years, but critical gaps remain in implementing interagency agreements.”*⁷

While the recommendation in the GAO report is within the context of implementing interagency agreements, the broader point regarding communication is at its core. BMTFs are well-positioned to foster this interagency communication, not only for the purposes of implementing interagency agreements, but also for serving as a conduit for dialogue on a host of other related topics, including NEPA. BMTF dialogue thus indirectly increases broader public involvement under the assumption that non-law enforcement sensitive information conveyed at these meetings will subsequently be passed along to other organizations and individuals within BMTF members’ broader networks.

Northern Border Case in Point

The most compelling recent example of how BMTFs can be harnessed to strengthen public input on the environmental impacts of proposed federal actions under NEPA is a document created by U.S. Customs and Border Protection (CBP) called the Northern Border Programmatic Environmental Impact Statement (NB PEIS).

CBP determined early in 2010 that it would be efficient and effective “to provide a broad-based analysis of CBP activities that could potentially become required within the next five to seven years in response to yet unknown changes in threat conditions along the 4000 mile border with Canada.”⁸ On July 6, 2010, it published a Notice of Intent (NOI) (75 FR 38822) in the Federal Register regarding its project. The NOI was followed by 11 public scoping meetings along the northern border later that month. Scoping letters describing the proposed project and inviting comments were sent to approximately 1,200 agencies, organizations, and individuals. Display advertisements were published in local 14 newspapers and public service announcements were sent to numerous local radio stations.⁹ In September 2011, CBP published its *Draft Programmatic Environmental Impact Statement for Northern Border Activities* and held a second series of public meetings, 13 in total, to invite public input on the draft document describing its proposed action.

BMTFs across the northern border played a role in the outreach process from the project’s inception. Participants in the BMTF meetings were given a description of the proposed action, including a general overview of the project and its goals. They were alerted to the NOI and the location of both sets of public meetings. In some cases, they weighed in on where meetings should be held, and they attended the meetings. They also were provided with links to the draft document and options for commenting on it. Hundreds of public comments were received on the draft NB PEIS and were reviewed as the revised version was prepared.

On July 27, 2012, the Final Northern Border PEIS and Draft ROD were made available to the public, commencing a 30-day waiting period. Approximately 1400 libraries and 100 individuals received the PEIS on CD and Draft ROD in hardcopy. Over 900 NGOs, Federal, state and local agencies, and individual members of the public received post cards notifying them of the document’s availability on the website. CD copies were hand-delivered to the Department of the Interior and the U.S. Forest Service in their role as cooperating agencies.¹⁰ Northern Border BMTF officials were once again alerted, this time to say that the final document was on the U.S. Customs and Border Protection website.

Limited Contribution – Or Potentially More Significant?

The scenario just described is a clear example of how BMTFs can, and do, serve as an information conduit about proposed federal actions with potential environmental impacts. But to what extent do they serve to actually reach *the public* and obtain their input and involvement? Are BMTF meetings simply a case of federal government-to-federal government dialogue? In the case of the NB PEIS, for example, DOI and the Forest Service were designated as CBP “cooperating agencies.” And, as it happens, they also serve as Co-Chairs of many of the BMTFs. By including the NB PEIS on BMTF meeting agendas, is the result merely stronger federal communication but with little impact on getting the *broader public* involved? Are BMTFs being underutilized for obtaining broader public input?

The answer, in part, lies in how the word “public” is defined. How broadly should the term “*the public*” be interpreted? CEQ itself sheds some light on this issue in its *Citizen’s Guide to the NEPA*. The purpose of the guide is described as “...to help citizens and organizations who are concerned about the environmental effects of federal decision making to effectively participate in Federal agencies’ environmental reviews under the National Environmental Policy Act (NEPA).”¹¹

CEQ guidance thus suggests that the term “*the public*” includes two groups: those who are unaffiliated, and those who are part of an affiliated group or organization. CEQ does not further specify the type of organization it refers to. Although one could interpret the text to mean non-governmental organizations, it also could apply to non-federal governmental organizations, or even other federal agencies that are concerned about the proposed action of a sister federal agency, i.e., those agencies that take on the status of “cooperating agencies.”

Another CEQ document provides further insight into the concept of public involvement. Former CEQ Chair James L. Connaughton issued his Memorandum for the Heads of Federal Agencies on January 30, 2002 to “ensure that all Federal agencies are actively considering designation of Federal and *non-federal cooperating agencies* (italics added) in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA). The Memorandum goes on to say, “...The CEQ

regulations addressing cooperating agencies status (40 C.F.R. §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so ‘in cooperation with State and local governments’ *and other agencies with jurisdiction by law or special expertise* (italics added) (42 U.S.C. §§ 4331(a), 4332(2)).”¹²

The Affiliated, and Non-Affiliated Public

Although BMTF membership is limited to governmental organizations, non-governmental organizations and the public are not totally precluded from involvement. The BMTF Charter states: “Public and non-governmental organizations may attend when invited to non-sensitive portions of regular meetings or to work with working groups or special projects.”¹³ It goes on to say, “... The BMTF addresses specific issues or tasks through creating working groups generally made up of representatives of the agencies that have specific responsibilities, special expertise, or bona fide interest in the issue. Each working group has a leader who organizes meetings, facilitates the work of the subgroup and reports on progress. Working groups are drawn from the BMTF membership plus necessary specialists and staffs to complete assignments. Members of the public and non-governmental organizations may be invited to work with working groups or on official projects but their participation does not grant membership.”¹⁴

Theoretically, then, non-governmental organizations (NGOs), the “affiliated public,” could play a role in the operations of BMTFs. But the disincentive to exercise that capability is strong. In the case of many or federal agency representatives, NGOs are perceived more as a source of trouble than as potential constructive contributors to the governing process. Fear of lawsuits looms heavily, and if media sources are to be believed, that fear may be justified.

In an article published in 2009 on the website *Now Public, Crowd Powered Media*, author Jake Putnam says: “In just six years non-profit environmental groups filed more than 15-hundred lawsuits and in turn the Federal Government paid out more than \$4.7 billion in taxpayer dollars in settlements and legal fees in cases against the U.S. government.”¹⁵ Whether or not these numbers are accurate, the risk-averse attitude often remains: NGOs often mean trouble, if not financial trouble, at a minimum, time-

consuming, stressful administrative trouble, and therefore, interaction should be either avoided or entered into with caution. Therefore, in terms of routinely getting NGOs more involved in BMTF discussions and activities, the opportunity likely will remain largely theoretical.

In the case of the “unaffiliated” public, BMTFs have an even more tangential role to play. But it does exist. Given, the Charter does specify that “all identified *sensitive* information that is shared is intended exclusively for the individual members of the BMTF and will not be disseminated further.”¹⁶ But the “hold close” provision applies only to “identified sensitive information,” which does not include publicly-available NEPA information, for example. Moreover, it can only be assumed that individual members of participating BMTF organizations have professional and personal networks that include the unaffiliated public, and that they communicate frequently with these networks via a variety of communications channels, including the burgeoning array of social networking websites. Statistics for 2011 for Facebook alone show that the site has more than 500 million users and the average user has about 130 on-line “friends.”¹⁷

Theoretically, the potential is there.

Recommendations to Provide Win-Win

Opportunities exist to tweak the current institutional model for BMTFs to increase their core mission effectiveness and also increase their potential usefulness as a NEPA public involvement vehicle. To move forward in this direction, the following steps are recommended:

A. Broaden Participation

- ***Continue to strengthen CBP-wide participation.*** As CBP moves more and more toward what is termed “one CBP,” the Border Patrol has begun to work even more closely with the other two operational uniformed components, the Office of Air and Marine (OAM) and the Office of Field Operations (OFO). Although in some cases, representatives from OAM and OFO attend BMTF meetings, this practice should become even more widespread.

- Note: The current continued focus on the Border Patrol portion of CBP is understandable: much of the impetus for setting up BMTFs in the first place was the interagency conflict that developed on public lands patrolled by the BP between the Ports of Entry along the southwest border, particularly when the Department of Homeland Security announced in April 2008 that it was issuing two waivers to expedite the process of installing tactical infrastructure along the southwest border.¹⁸ However, as of January 27, 2012, the CBP Project Management Office had overseen the completion of 651 miles of pedestrian and vehicle fencing along the Southwest Border.¹⁹ And thanks to the success of the Public Lands Liaison Agent program (*see next section*), relationships between Border Patrol officials and public lands officials are much more constructive and collaborative. And so the time is ripe to more robustly involve the other two CBP components.
- OAM officials, for example, can contribute valuable expertise to BMTF discussions in areas such as how to combat as low-flying illegal drug traffic. And issues such as exercising caution when patrolling by air during nesting season for certain species already have appeared on BMTF agendas. Greater involvement from these components also can help clarify NEPA-related descriptions of proposed actions and their potential effects, clarify lead and supporting agency discussions, and indirectly broaden public awareness and involvement given that OAM and OFO officials also have their broader formal and informal networks.
- ***Increase state and local agency involvement.*** Greater participation by this portion of the stakeholder spectrum could serve particular BMTF groups well, especially in areas where little or no public land exists but there is significant state land or the potential for strengthened law enforcement work through greater local involvement. And their participation, in turn would result in more broadly-based dialogue about proposed federal actions under NEPA.
- ***Consider greater NGO and Congressional staffer involvement.*** Concerns related to NGO involvement have already been discussed. Similar concerns tend to exist

about involving Congressional representatives and their staffers: the potential for using information obtained in a way that does not benefit participating organizations, e.g., creates controversy or results in investigations, thus potentially resulting in expenditure of time and money that do not support core missions. However, several BMTFs have reported positive results from Congressional involvement and the educational opportunities provided. These success stories should be more broadly disseminated. Strategically reaching out to specific NGOs for involvement in workgroups that benefit all parties is another option that should be more fully explored.

B. Strengthen Administrative Functions

- ***Provide standard administrative guidance and best practices and encourage their adoption by all BMTFs.*** While continued flexibility in where, when and what individual BMTFs discuss is key to their success, much can be gained when standardized successful business management and administrative procedures are universally employed. Sound administrative underpinnings and practices free up participants to focus on the substantive issues at hand. Deciding at the end of each meeting when the next meeting – or even two – tentatively will occur is one straightforward example. Not all BMTFs employ this approach, and months can go by while a group determines the optimal time for the next meeting.
 - A tri-agency BMTF headquarters group comprised of Border Patrol, DOI, and Forest Service has put together such guidance. However, it has only been offered up as a suggestion to date. Additional steps should be taken to ascertain to what extent it is being followed and if there are accompanying success stories that would promote broader implementation of the practices.
 - With continued changes in agency personnel, standard administrative practices become all the more valuable. Straightforward procedures such as sending out the draft agenda at least two weeks in advance of meetings and requesting input, as well as beginning each meeting with introductions, are just two examples of team-building techniques that can

only serve to benefit participants. The better the administrative working relationships within each BMTF, the better the chances of achieving its goals and fostering stronger NEPA-related public involvement and collaboration.

- ***Broaden the pool of agencies that serve as Co-Chairs.*** Historically, since much of the original impetus to create BMTFs came from tensions between BP and either DOI or the Forest Service along the southwest border, it was logical to have the Co-Chairs be a BP agent and a representative from either DOI or the Forest Service. However, in recent years, as the BMTF program along the southwest border has expanded and matured, new options for co-chair agencies have opened up. The Detroit Sector, for example, is responsible for 863 miles of international water boundary with Canada.²⁰ In this case, it may be more appropriate for a representative from CBP's Office of Air and Marine to be a co-chair instead of a BP agent. And in the Buffalo Sector, where much of the land is state-owned and a BMTF has not been created, a new BMTF could consider having a state government representative serve as one of the co-chairs. Ensuring that co-chairs represent primary stakeholder organizations in the area will contribute to stronger BMTFs and stronger associated outreach on a variety of issues, including upcoming federal actions that trigger NEPA and associated public involvement.

U.S. CUSTOMS AND BORDER PROTECTION LIAISON PROGRAMS

Borderlands Management Taskforces are not the only federal agency communication vehicle with potential to increase public input into the NEPA process. As mentioned previously, CBP has created a variety of liaison positions within its ranks that also offer great potential for increasing NEPA-related public input. Each type of liaison program will be described briefly, followed by a more general analysis of how these liaison positions also have the potential to be harnessed to strengthen NEPA public involvement.

Public Lands Liaison Agents (PLLAs)

Like the BMTF Program, the Public Lands Liaison Agent (PLLA) Program was created to promote intergovernmental collaboration, problem-solving, and resource-sharing. As its name conveys, the particular focus for this collaboration is public lands along the border. The PLLA Program was created in 2005 by former Border Patrol Chief David Aguilar,²¹ now Acting Commissioner of U.S. Customs and Border Protection. Each of the Border Patrol's 20 sectors/field offices has designated an agent to be the PLLA for that sector.

All PLLAs receive environmental and cultural resources training as the foundation for their work. Some of that training focuses on the NEPA process per se, including public involvement. But the bulk of it focuses on how to comply with NEPA and other environmental and cultural resources laws while carrying out day-to-day responsibilities in the field. When PLLAs do get involved in the development of NEPA documents and processes, it usually is as part of a broader sector project team. This team, in turn, is under the direction of the Facilities Management and Engineering Office within U.S. Customs and Border Protection at headquarters.

Besides learning about compliance, PLLAs also learn about specific environmental and cultural resources stewardship practices, e.g., being aware of the nesting season for a particular species in their area of operation. Armed with this expertise, they then take the lead for training of this nature within their sector.

However, the primary responsibility of a PLLA is to build and maintain constructive relationships with the public land managers in his or her sector. The aim is to avoid interagency conflict, maximize opportunities for interagency collaboration, and increase the likelihood that should any environmental issues arise, they can be resolved at a local level rather than elevating them.

Frequently, these land managers are from one of the agencies within the DOI or from the Forest Service. They include both counterpart law enforcement officials as well as officials with scientific expertise and natural resources protection responsibilities. One example is the U.S. Fish and Wildlife (FWS), within DOI, whose responsibilities include improving the implementation of the Endangered Species Act.²² PLLA discussions with

their FWS partners may include issues such as how to effectively maintain access for BP operations in endangered species habitat.

Besides their ongoing dialogue with individual land managers, PLLAs also participate in a wide range of meetings and teleconference calls hosted by organizations whose activities may intersect with Border Patrol operations. It should be noted here that this type of participation, potentially, broadens a PLLA's potential to serve as an advocate for greater public involvement in all things NEPA-related.

In the Tucson Sector, for example, PLLAs take part in meetings of the U.S. Fish and Wildlife Service Sonoran Pronghorn Recovery Project. The goal for this project is to strengthen efforts to protect the endangered Sonoran Pronghorn antelope, whose habitat lies within three parcels of public land located within the Tucson Sector: the Cabeza Prieta National Wildlife Refuge; the Barry M. Goldwater Range; and the Organ Pipe Cactus National Monument.²³ Perhaps more surprisingly, sector PLLAs also listen in on weekly teleconference calls initiated by the El Paso Natural Gas Pipeline Company so that they can hear updates on a proposed project that would open up a new north-south corridor in southern Arizona.

PLLAs also reach out to organizations such as the International Boundary and Water Commission, which has responsibility for demarcating the border between the U.S. and Mexico among other duties, as well as state land managers and state historic preservation officials. In addition, in some sectors, they interact with non-governmental organizations such as the Nature Conservancy and the Malpai Borderlands Group, a nonprofit group working to implement an ecosystem management approach on nearly a million acres of ranchland along the southwest border.²⁴

Finally, PLLAs regularly take part in meetings of intergovernmental groups. Perhaps most significantly, they serve as co-chairs for their local BMTF (see earlier discussion of BMTFs), a position that affords them ongoing communication with a wide range of organizations. And in southern Arizona, PLLAs participate in a group called the Intergovernmental Executive Committee (IEC). The membership of the IEC, like the BMTFs, is governmental only, but the IEC's mode of operation differs significantly in that the meeting during the day is followed by a meeting with the public that evening.

Border Community Liaisons (BCLs)

U.S. Custom and Border Protection's Border Community Liaison (BCL) Program, like the PLLA Program, is designed to build and sustain communication with a particular portion of the Agency's broad stakeholder spectrum – in this case, local governmental organizations such as sheriffs' offices and city government as well as other community organizations. The Program was implemented within the Border Patrol in 2011 and is being expanded to include CBP's other two operational branches, the Office of Field Operations and the Office of Air and Marine. Full implementation, CBP-wide, is slated to occur by December 31, 2012.²⁵ The program is managed by the CBP State, Local and Tribal Liaison Office.

To some extent, the BCL Program formalizes and standardizes the community outreach work that has been taking place informally within CBP for decades within programs with names like Community Relations. Under the BCL Program, however, individual agents have been officially designated in a number of specific field locations within all three branches. Each of them is charged with instituting and sustaining two-way communication with their local communities as they go about carrying out their mission. Typical activities can include facilitating town-hall meetings and other events; participating in speaking engagements; and providing opportunities for the sharing of community feedback.

Other Liaison Programs

CBP's State, Local and Tribal Liaison Office (as its name implies) also oversees the agency's Tribal Liaison Program. Tribal lands along the border can be extremely extensive. The Tohono O'odham Nation, for example, has 2.8 million acres of reservation lands, the second largest tribal land base in the country.²⁶

A total of 13 Tribal Liaisons have been designated within the Border Patrol's 20 sectors. Tribal Liaisons learn about the culture of the tribes within their sector, including the significance of sacred sites and other components of tribal culture. They work closely with law enforcement officers within the tribe and may sometimes carry out joint patrols. Sometimes they are invited to attend Tribal Council meetings.

The Ranch Liaison Program is modeled on the basic premise that underlies the other liaison programs: that having a single person who is the point of contact for a particular stakeholder group helps to build trust and constructive communication. Moreover, by providing that person with either formal or informal training about the culture and perspectives of that group, the likelihood of finding a mutually acceptable path forward, as well as avoiding misunderstandings, is greatly enhanced.

The Program has a strong presence along the southwest border, in Arizona, New Mexico, and Texas, but especially Texas. Aside from Big Bend National Park in Far West Texas, the majority of land along the Texas border is privately owned. All seven stations in the Laredo Sector, for example, have designated a Ranch Liaison. The Liaisons maintain regular contact with their local ranchers and have put together a contact database for use in an emergency situation. And Del Rio Sector, further north, also has a Ranch Liaison identified at each of its stations.

Potential to Support Public Involvement Goals

CBP's Liaison programs, undoubtedly, offer direct access to specific population groups. The continued existence and utility of these programs suggests that building and sustaining a one-on-one professional relationship can contribute to increased information sharing and, perhaps even more significant, a climate in which any conflicts that arise stand a good chance of being resolved.

But how realistic is it to expect that Liaison positions designed to support an agency's core mission can also be used to achieve other goals such as increasing public involvement in proposed actions by other agencies that trigger NEPA? For example, if the ranching community is a key stakeholder in a non-DHS proposed federal action, how likely is it that Rancher Liaisons voluntarily will step forward to help get the word out? To what will they encourage their local ranchers to get involved and comment on the proposed action if it does not affect border security?

For several reasons, the answer probably is not very likely. First of all, the primary mission of CBP is to be "the guardians of our Nation's borders,"²⁷ and BP agents, including Rancher Liaisons, are charged with working specifically to help achieve that goal. Unless the proposed action compromises BP's ability to carry out its mission,

such as a land access issue, it may be seen by the Liaison as irrelevant to their job and therefore not a priority topic to bring up during ongoing dialogue. Depending upon the individual Liaison, if they are aware of the action and know that it potentially could greatly impact local ranchers, they may choose to bring it up if they have developed more informal friendships with the ranchers. However, there may be an additional barrier in that the Liaisons themselves may not be aware of the proposed action.

Furthermore, as U.S. unemployment remains high²⁸, federal expenditures are being closely examined, with the threat of automatic federal budget cuts ever present.²⁹ Congressional watchdogs such as the Government Accountability Office continue to carry out studies to examine whether or not taxpayer money is being wisely expended, including, ironically, recommendations such as the need for greater interagency collaboration and leveraging of resources³⁰ -- ironic in that the combination of budget cut threats, plus required performance measures that typically only relate to the core mission, combine to function as a disincentive for public servants to reach across mission lines and allocate time and resources to anything other than their bare bones job description.”

Individual Congressional representatives have added to the disincentive list by loudly protesting the use of border security funds for environmental purposes in the form of mitigation related to security work. In April of 2012, Arizona Senator John McCain sent a letter to DHS Secretary Janet Napolitano stating the following:

“...As you're well aware, U.S. Customs and Border Protection (CBP) is charged with enhancing border security, not with financing environmental projects at the behest of the Department of the Interior. Several of the projects you identified, like \$925,000 to search for bat caves or \$411,000 to install special barriers to keep Mexican fish from crossing the border, have no bearing on the life-threatening national security crisis facing my constituents in the State of Arizona...”³¹

Of all of the Liaison programs, the PLLA Program likely holds the greatest potential to serve as an instrument for increasing public involvement in NEPA work. PLLAs receive NEPA training to assist them in their liaison work with counterpart land management agency officials. Given that they already have foundational knowledge of the NEPA process and the role that public involvement plays, they are more likely than

other liaison agents to have an interest in environmental matters and perhaps even discuss them with their broader networks. They are also more likely to interact with environmentally-focused non-governmental groups than other liaison agents.

CONCLUSION

After examining the potential for both BMTFs and CBP Liaison positions to strengthen NEPA public involvement, it must be concluded that the former holds greater potential promise. The BMTF charter specifically cites natural and cultural resource protection as one of the goals of the group, opening the door for dialogue about NEPA both during and outside meetings. With broader organizational participation and stronger administrative practices, the potential of BMTFs could be further advanced.

Liaison positions within CBP, on the other hand, offer less potential even though they provide a direct line to targeted segments of the stakeholder population. Numerous pressures to stick to officially assigned duties blunt the opportunities to utilize this communication mechanism for broader purposes.

Not until the same “whole-of-government approach”³² being used by the Obama Administration to increase national security is applied more broadly to set the tone for greater interagency mission cooperation will communications vehicles housed in particular agencies be harnessed to achieve their full potential for the greater good, including strong public involvement in NEPA.

###

¹ Council on Environmental “Quality (CEQ), “*Collaboration in NEPA: A Handbook for NEPA Practitioners*,” October 2007, p. 1.

² <http://www.bordercounties.org/vertical/sites/%7BB4A0F1FF-7823-4C95-8D7A-F5E400063C73%7D/uploads/%7B00C192A3-E3F0-4E3F-B33A-F819997BF3F2%7D.PDF> ; U.S. Mexico Border Counties Coalition, “*At the Cross Roads: U.S.-Mexico Border Counties in Transition*,” Chapter 4, 4-1. March, 2006.

³ Selkirk Ecosystem Grizzly Bear Recovery Project, Idaho Fish and Game Department, <http://www.owens-foundation.org/docs/selkirk2.htm>.

⁴ <http://www.gallup.com/poll/1675/most-important-problem.aspx> , May 3-6, 2012.

⁵ *Borderland Management Task Force (BMTF) Charter*, updated 2009, p.1.

⁶ <http://www.cbp.gov> *PLLA Tracker*, Vol.1, Issue 1, May 2009, p.6.

-
- ⁷ Government Accountability Office report GAO-11-177, “Border Security: Additional Actions Needed to Ensure A Coordinated Federal Response to Illegal Activity on Federal Lands,” November 2010, inside front cover..
- ⁸ http://www.cbp.gov/xp/cgov/about/sr/nobo_peis/
- ⁹ “Draft Programmatic Environmental Impact Statement for Northern Border Activities,” U.S. Department of Homeland Security, U.S. Customs and Border Protection, September 2011, ES-2.
- ¹⁰ U.S. Customs and Border Protection Office of Facilities Management and Engineering. e-mail, July 25, 2012.
- ¹¹ “A Citizen’s Guide to the NEPA: Having Your Voice Heard,” Council on Environmental Quality, December 2007, p.1
- ¹² “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act, Memorandum for the Heads of Federal Agencies,” James Connaughton, Chair, January 30, 2002.
- ¹³ *Borderland Management Task Force (BMTF) Charter*, updated 2009, p.1.
- ¹⁴ *Ibid*, p.2.
- ¹⁵ <http://www.nowpublic.com/environment/environmental-lawsuits-rake-billions-lawyers> ; Now Public, Crowd Powered Media: “Environmental Lawsuits Rake in Billions for Lawyers,” Jake Putnam, October 9, 2009.
- ¹⁶ *Borderland Management Task Force (BMTF) Charter*, updated 2009, p.2.
- ¹⁷ www.Digitalbuzz.com, “Facebook Statistics,” January 18, 2011.
- ¹⁸ http://www.cbp.gov/xp/cgov/border_security/ti/about_ti/ti_timeline.xml
- ¹⁹ http://www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/
- ²⁰ http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_sectors/detroit_sector_mi/detroit_history.xml;
- ²¹ <http://www.cbp.gov> “PLLA Tracker Newsletter”, Vol.1, Issue 1, May 2009, p.1.
- ²² http://www.fws.gov/Endangered/Improving_ESA/reg_reform.html
- ²³ <http://www.cbp.gov> “PLLA Tracker newsletter”. Vol.4, Issue 1, February 2012, p.2.
- ²⁴ <http://www.malpaiborderlandsgroup.org/>
- ²⁵ CBP Office of State, Local and Tribal Liaison e-mail, August 7, 2012.
- ²⁶ http://www.tonation-nsn.gov/chairmans_message.aspx
- ²⁷ <http://www.cbp.gov/xp/cgov/about/mission/guardians.xml>
- ²⁸ <http://www.tradingeconomics.com/united-states/unemployment-rate>
- ²⁹ <http://www.bloomberg.com/news/2012-06-25/congress-said-to-delay-automatic-budget-cuts-until-march.html>
- ³⁰ <http://www.gao.gov/products/GAO-11-177>
- ³¹ http://www.mccain.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=91c99831-9da2-4f20-ac97-359c4146176f ; Letter from U.S. Senator John McCain to DHS Secretary Janet Napolitano, dated April 23, 2012.
- ³² <http://www.defense.gov/news/newsarticle.aspx?id=59377> , “New National Strategy Takes ‘Whole of Government Approach,’” May 27, 2010.