

BLM Nevada Tri-RAC Meeting Transcript February 6, 2014 Elko, Nevada  
Segment 3: Introduction to the National Environmental Policy Act (NEPA)

>> I can see we have a couple folks that haven't joined us yet but we're going to go ahead and get started.

Before we get into the presentation on NEPA, which I know you're all really looking forward to, a couple house keep young items.

One has to do with the agenda.

Since we pushed back since we finished early this morning and pushed back the time for lunch, I'm going to give you more time for your breakout session this afternoon.

And I guess that question that leads into is tomorrow do we want to try to get folks out of here earlier because of the weather?

Or pending weather.

So would we want to try to wrap up around noon or earlier than that?

Well, I guess if somebody wants to give me a time, we can work with the agenda and try to get you out of here with that.

Most of time, as you know, is dedicated to your break out session.

You've got three and a half hours starting at 8:00.

So would you want to cut that shorter?

Two hours tomorrow.

Hour and a half tomorrow?

Two hours?

Okay.

Right now it would be about noon based on the change in the schedule.

Wrapping up at noon is acceptable?

Again, it's up to them how fast they want to have their discussions tomorrow.

So I'll adjust the agenda and make sure we have it noted on the flip chart at the front, and then I'll turn it over to David Pritchett from our Nevada State Office to do the presentation on NEPA basics.

>> Hi.

I'm David Pritchett from the Nevada State Office in Reno.

How are you all doing after lunch?

Funny.

Doing funny after lunch.

So a lot of us hear about NEPA, or some people I heard yesterday say NEPA.

I'm going to go over what the basic law is and why Federal agencies deal with it, and it's an acronym, of course, and I'm going to provide four potential definitions and then we'll pick what N E P A really stands for in a couple minutes.

The presentation is a little thick, but hopefully the speaker is more animated.

So, this is me.

I joined BLM a few months ago after working at some other agencies who approached the law in their own unique agency way, too.

So, NEPA is a Federal law from 1970 and we remember our history, there's a lot of other major environmental legislation that passed through Congress.

Clean air.

Clean water.

Environmental protection.

Review through EPA.

Overall it's our most fundamental law about environmental protection and planning.

The language here from the original legislation is a little poetic, but over time it's very specific what it means.

All Federal agencies are responsible to implement the law and manage it, and from the original legislation here it's also in this handout sheets that are sort of going around.

The whole basic point here, to quote the law, is to utilize a systematic interdisciplinary approach that will inspire the integrated use of the natural and social sciences and design arts in planning and decision making that have a man's on environment.

So women came later, apparently, the way the law was written.

But it's the environment, everything out there.

So NEPA is the National Environmental Protection Act.

Is it the Nasty Environmental Protection Agency?

Is it the National Environmental Policy Act?

Or is it Never Ever Propose Anything for people who needed a NEPA document for their project?

NEPA is policy act, not protection act, which is a common mistake people in classes miss on their exams, and I'll explain why it's a policy, not really a necessary outcome.

Basically NEPA is a process about the Federal decision maker before a decision is made, like a permit or a right of way or to approve a plan.

These are decisions agencies make, and to use the language of the law, the deciding agency has to take a hard look, that's the phrase in the law, at the action alternatives to what could happen, the environmental effects, and possibly mitigation to reduce the adverse effects.

Basically in NEPA it's about disclosure and those great, fantastic Environmental Impact Statements are a way to coordinate other kinds of Federal legal compliance under an umbrella.

So like using this example with my umbrella picture, there's a whole suite of Federal laws that often apply, and under NEPA it's a way to sort of address everything in a single document so people don't wonder if something got missed.

So here's a few examples from a transportation project, you know, about how other Federal laws for, say, drinking water or hazardous material or clean air, all kinds of issues could be encapsulated through what we call the NEPA process.

And to review, under the law, agencies prepare a detailed statement for major Federal actions significantly affecting the quality of the human environment, and that could almost mean anything, but over time kind of honing down what applies and what doesn't apply has been done through the process, and the basic point here is that NEPA is about disclosure, not necessarily rules about standards to make a decision.

But it's about knowing how the decision is made.

And there are some court cases that help define the disclosure function of NEPA, like this upper one, it's a procedural mechanism to ensure consideration of environmental concerns.

It does not mandate a particular result.

And in another case from 1989 in the lower quote, NEPA merely prohibits uninformed rather than unwise agency action.

So, essentially, an agency could decide in the end all kinds of things, but under the National Environmental Policy Act everyone has to be really aware of why the decision was made and what the consequences of decision could be and what the other options were.

But it doesn't prevent bad decisions.

It merely allows informed decisions, whatever they may be.

So over time we have some details that have evolved over the decades to really hone down how agencies like Bureau of Land Management go about the process, and I'm just quoting some examples here.

You know, we have nationwide regulations through this obscure little agency called the Council for Environmental Quality that defines a lot of the details of how the law works.

Department of Interior has guidance for people, the bureaus, including BLM have their own policy book.

There's a picture of the cover there that staff look at all the time.

It was last revised in 2008.

And for even more detail there is a website called the NEPA web guide which helps everyone interpret how do we interpret the manual which is how we interpret the policy.

So there's a lot of specificity over time in how we Federal bureaucrats process the whole law.

So, again, when an agency does something, it's called an action, and that could be a project, a program, a permit decision, promulgating a rule.

All kinds of things are collectively called an action, and we all know examples of what BLM does... permits, right of ways, land transfers.

These are all actions that are subject to this review process.

Here's some examples.

Policies, plans, programs, projects.

These are generally the options here.

And when we make decisions, we have a document and a product. I call them products for how to follow the process with different kinds of documentation and verification.

So this is the long list.

There's a decision product called a categorical exclusion, a determination of NEPA adequacy, notice of intent, Environmental Assessment, a FONSI, Henry Winkler's character, FONSI, Finding of No Significant Impact, but from the public's perspective there's a lot to this alphabet soup.

What we hear about from the public perspective is potential project or proposed action can be reviewed and have one of three possible outcomes about how the process is met, and one is called these are kind of names I'll bring up later.

One is called a categorical exclusion, a CE or XC, a more complex review is through a document called an Environmental Assessment.

And a more complex product with more public involvement required is an Environmental Impact Statement, which could be a lot of paper and a lot of megabytes on a file for a complex project.

And we love process here.

This is a chart you can't really read in complete detail, of course but it helps us how to figure out how to navigate all these different outcomes of the NEPA process, and basically we start with a description of what we're doing and then a series of decisions, like this flowchart indicates, whether the project has an effect in the environment, "yes" or "no."

If yes, you start looking at a planning process.

If no, you see if a categorical exclusion may apply.

Anyway, it's a little thick, but this is how we make sense of how the sausage is made in the review process.

For some quick examples, some actions by Federal agencies are so routine they have minimal environmental impacts, and they could qualify for what we call an exclusion, a categorical exclusion.

Simple things like roads or funding actions that kind of are routine and don't have something on the ground that's really significant.

So there's a product called a categorical exclusion that's sometimes an option except under what we call extraordinary circumstances, and here's a list of some examples of how an exclusion may not apply, and, therefore, you do a more complex analysis.

For example, are unique natural resources of historic and cultural value affected?

Then this first option doesn't apply.

Are sensitive or endangered species affected?

The answer is "yes" or "no."

If yes, then you do the next level of analysis.

But my point is, we have specific questions to sort of get to the answer of a complex process that the original law set up.

So if we're doing a more detailed analysis, there's a lot of things the public can participate in and also helps craft how the agencies look at fulfilling the intent of the law, and one process which a lot of us have heard about, of course, is called scoping, and that's where agency staff and sometimes requesting

the public or other agencies ask to just put out some ideas about what could be the effect on the environment, something out on the landscape.

It's called scoping.

I'm going to get to this a little more later.

And sometimes there's a regulated procedure where a request goes out to the public.

Say there's a 15 or 30 day window period to send back ideas.

There's say a road proposal or a mine proposal or something.

Besides what the staff may know, what the public may have as input, is invited through the scoping process.

And the key thing about scoping is not general opinions, but to raise specific issues, and they're called issues, like what is a point of disagreement, debate, dispute?

What are uncertainties?

And this helps shape what the NEPA document, the analysis, may address.

Another key component throughout the whole process is called formulation of alternatives, and an alternative is a way to get to the point of the question.

Say the a potential project is an electric transmission line from point A to B.

The alternatives could be different pathways on the landscape to get there.

So a range of alternatives are brought up in the analysis, and under the law, one of the alternatives is called the no action alternative.

So everything else can be sort of put in comparison for the status quo.

So it's all kind of relative effect.

Another sort of basic component that people hear about in the NEPA universe is what is the affected environment.

So the document will describe current conditions, the trend of the resource, you know, like wildlife populations, water quality trends, air pollution. These are kind of the issues we know about as baseline, and then another component of the report is called an analysis of environmental consequences about if the project or different alternatives for the project were implemented what are the effects?

And then those are put in the discussion to help the final decision.

It's a little thick but here's some examples.

Now, in environmental consequences, you got to sort of think ahead as a team.

In the cartoon here there's a baby nursery there next to the predatory dingo farm.

Should you think ahead about approving the permit for the child nursery next to the coyotes, DINGOES, wolves or whatever.

You have to think ahead like that.

In a more serious line, here's some examples of how the NEPA process may look at questions, and this one is overly general, but sometimes it shows up in reports.

Here's something about air quality and emissions, and if you can see the text here, which is from a real document a while ago, in another state, you know, the discussion is about would depend on the length of the pipeline, could do this, could do that.

It's a little vague and probably would not survive a legal challenge.

Just as an example, there's a better approach when you look at the environmental consequence or the impact, you look at sort of the worst possible, the maximum level of activity, and here's a geothermal example.

Emission of so much carbon dioxide per hour per year.

You're starting to get quantitative, which is a key outcome of a successful report.

You got some numbers to work with so you can figure out the kind of impact.

Another example, here's one about some pesticide or herbicide use.

This one, instead of worst case scenario, is sort of typical scenario, because you may not know at the exact moment.

You can see from the description we're talking about droplet sizes, herbicide volume, the size of the equipment.

This is great stuff for a report because it takes out the ambiguity.

That's just an example of simple or hard ways to write up this part of the analysis.

So, again this is a more simple diagram.

NEPA is a process that the agencies use, and they follow a series of "yes" or "no" decisions, more or less, on a flowchart, and that helps define whether we know the environmental impact is significant, like bad, really bad, it's called significant, and if it is or is not, that helps define the complexity of the analysis in the report.

So let's try some examples here.

So say we have an idea, a proposed action in the upper left part of our flowchart, thinking you know, the first question is does an existing categorical exclusion apply?

If yes, and it has no other extraordinary circumstances, that list I showed before, you know, then the categorical exclusion document can be prepared fairly easily and then the process is done.

If that's not an option, but if some other environmental review document, another Environmental Assessment or Environmental Impact Statement exists, then maybe the action already is covered, as we say.

So the second column here, you could just write a finding called a DNA, determination of NEPA adequacy, that just sort of says we've already looked at this and this is already part of the old description.

If things are less certain, could the effect be significant or not, there's a two tiered process, and one level of analysis produces something called an EA, Environmental Assessment, and that analysis sort of based on what I showed before gets to whether the impacts are significantly adverse or not.

And so preparing an Environmental Assessment is focused sort of answering that question.

And you could see at the lower right diagonal arrow, if the answer is yes after some level of analysis, then a more thorough report called a Federal Environmental Impact Statement is done.

If the impacts are still not significant, then the agency makes a determination, a decision, through a product called a FONSI, Finding of No Significant Impact.

And once people work on these projects, this pathway becomes really instinctive about how things work.

So I'm just going to run through a few examples of one kind of document we see a lot called an Environmental Assessment, which is why sometimes they take a while and they're complex, and they occupy some staff time, is because there's sort of required elements, and the purpose remember, the point of NEPA, is disclosure and public awareness.

So the document has to describe what the proposal is, and for BLM, is the proposal already consistent with an existing Resource Management Plan?

That's an important revelation in the document process.

And the NEPA process also helps invite public review and public participation and disclose the environment affected, potential impacts, and it also can describe ways to reduce the impacts through mitigation measures.

Like I said in the chart before, if some of the impacts are definitely significant, then it's guidance about preparing a more complex Environmental Impact Statement.

So to get really wonky here, which I'll not dwell on more than half a minute, but we also have sort of a required table of contents or outline of what goes in an Environmental Assessment document and that helps shape the thinking of the agency people who prepare them, because over time the outline and the content and who is doing it, where, what and why are all routine components so we don't leave things out.

And there's sort of pretty clear rules about how you set up one of these documents.

And eventually at the end there's sort of a formal finding document called a Decision Record or a Finding of No Significant Impact, which is where the agency declares, yes, we met the requirements and here's our decision that it's analyzed, and then the Federal action can happen, like the permit or the right of way or whatever.

So from a lot of your audience here more than the public perspective, there's a lot of opportunities to get involved in the process and provide input.

There's a document that's real easy to find at many websites called the Citizen's Guide to the NEPA from 2011, there's documents the staff use but anyone can look them up, called the NEPA handbook.

When an agency contemplates something they often have to put a Federal Register notice and BLM and other agencies will issue a news release, so there will be ways to find that way.

We have a process called E planning through our BLM website where whatever is going on at the different BLM districts has a list of ongoing planning projects, and people can go there and find out the status of things.

And the method of participating is people can provide input as an individual, as a nongovernmental organization, or if they're part of an agency, you know, local, state or other Federal agency, they all have a way to provide input through meetings that invite comments and through formal commenting when a draft document is made available.

So, my point here is there's a lot of opportunities to jump in the process, and the earlier the better.

So when people provide comments, they have to be substantive, which is sort of a phrase under the law, and instead of just expressing a like or dislike for an industry or the location or whatever, the way to really have a comment addressed that the agencies have to do is to make the comment really stay on point.

So, for example, in the list here, is the accuracy of the document correct or incorrect?

Was the method accurate, but was the method done sound?

These are all the kinds of opportunities for input that do get a response in the revised document.

And another key component that's especially critical in the whole process is which alternatives to the project were put in the analysis, and can people think of other alternatives that get to the same purpose?

So back to public comment for substantive comments, there's a lot of venues here.

This is a quick list.

The way the agencies go about their process, they often will publish a notice sort of inviting ideas.

There's a draft document, a final document.

For some sometimes in an Environmental Assessment there's a window between the publication of the document and then the final decision, which is the opportunity to revise the decision before it goes final.

There's a whole process to deal with cooperating agencies.

The picture here is from a book we published a couple years ago about how to work with other agencies, especially field trips, and as I mentioned before, we're really ramping up use of our website through a system called E planning, electronic planning, and the NEPA register.

So if you look around at our BLM website, you can find different documents in progress and find the right venue to comment should you like to.

So, again, on public comment, there's the original notification.

There's comment on the draft document.

And comments between the final document and the final decision by the agency.

A lot of focus of public comments, back to our procedural flowchart, is what is a significant impact and what is not?

And the process has a specific element called mitigation measures.

Mitigation means really to make something not as bad as it could be.

That's right from Latin, meaning to soften up.

So a key part in our planning process is often when an impact is described, is it significant or not?

And if it looks to be significant, the project can incorporate mitigation measures right up front.

So that could be like how to reduce noise, how to reduce dust, how to limit maybe times of the year to avoid disturbances to wildlife, things like that, and by incorporating elements into the project from the start, the agency making the decision can conclude with these mitigation measures part of the effort.

The overall project can still be found to have no significant impacts, and that helps the process go along.

If still in the end you look at our flowchart on the right side, if still in the end the final project does have significant environmental impacts, the report or the Environmental Impact Statement just describes it, admits it, and everybody knows about it, and then the decision by the agency can still happen.

But it's all in full disclosure.

And this gets me to some emerging policy with BLM. My interpretation is we're interpreting farther and wider what makes good mitigation, and there's a policy that's like a draft from a year ago looking at mitigation from a regional perspective, and this diagram just sort of shows we love flowcharts.

It sort of shows our thought process about how to look at existing regional plans as a way to apply to a specific project that's being analyzed under NEPA.

And the open ended questions are sort of how far and how wide can mitigation occur for a particular project?

This picture is kind of the most extreme theory out there.

We've got ecoregions in western North America, kind of similar conditions on the ground, and that sort shapes where that a potential mitigation effort could happen in a broader context rather than making a decision that could leave doubt with the public.

So just something that's going out there, and for large projects it's pretty handy to have this policy basis.

So for that I'll conclude for now.

This is my contact information at the Nevada office.

I work closely with someone else you may have heard of, Marguerite Adams, who has been there a long time, and we share a lot of duties about helping people at our BLM and Field and District Offices coordinate our projects and to help our people in the field when they comply with the National Environmental Policy Act.

So that's all I have for now.

Do we have any questions?

>> Can you define significant?

>> That question comes up all the time.

You know, what is a significant impact?

Because the policies are pretty clear.

Is it significant or less than significant?

But there's no appendix with a chart telling you the answer.

And significance, for an impact, is really the context.

Sometimes a decision is easy where, say, like there's a water quality standard or an air pollution standard, and if a project, something really big, may result, the analysis may show that the threshold is exceeded, then it's kind of easy to make a policy decision, yes, it's significant, because the whole county is out of compliance with dust emissions, for a hypothetical example.

Other times, like in the emerging universe of the sage grouse conservation and the draft plans, we're starting to get a good idea about where the best sage grouse habitat is, and there's lots of maps, and a policy decision could be based on, well, there's like too much stuff going on too close to too many sage grouse breeding habitat sites, leks, and it's put in context, and how much is too much is still the context of whether it's a project that's in a big area or a small area.

Say, for wildlife, is the disturbance ongoing, or is it short term?

These are the elements that get to the call of whether it's significant or not.

And that's not a clear answer because there really is no clear answer a lot of times, but ultimately it's up to the specific people at the Federal agency doing the action to make the finding.

If we remember our flowchart of different types of analyses, an Environmental Assessment as a way to look at the project must draw conclusion of no significant impact.

Or it must incorporate a lot of mitigation measures so the impacts are reduced so they're no longer significant.

The other pathway is to prepare an Environmental Impact Statement which essentially can admit, yes, it has some significant impacts for whatever the issue may be, but the action or the decision by the agency could still happen in full awareness that some impacts may be significant.

Like what I showed before so more things have better mitigation.

We have emerging policies through regional mitigation about some of these regions could be pretty big if you have the option to look farther and wider for mitigation options, then the impacts will be less than significant because we have more options on how to mitigate it.

I wish there were a simple chart sometimes, you know, but there's not.

>> I see you have one of the slides depicts the time frame for public comment and that kind of thing.

Is there a guideline or time frame for BLM to develop those phases?

So once you submit an application, are there laws or rules that say you have to have something done by so many days?

>> Not really, because usually there's no set schedule because the analysis required could be simple or complicated, or it may take field data or several seasons.

You know, some projects are really simple, they require a NEPA document but the project is really simple, and so those could be done in a few months.

Some, like a major mine or giant solar power facilities near Las Vegas that send power to half of North America, those can take longer, except when they have high priority from the President.

Then they go fast.

There was some of that a few years ago before my time.

But there is no set schedule because the kind of project could be so different.

But the public review process does have a certain window period when people can comment.

>> Anything else?

>> I have two questions.

One of my and then one of my members asked me to ask how many project alternatives need to be analyzed.

But my question is: who makes the decision?

Is it a team of experts?

Is it higher level than the state?

Who makes the decision?

Like I say the other one was how many

>> alternatives?

Well, one of the artful outcomes of the law is like I showed earlier about disclosure, it's not that it's like a regulation, but NEPA is more of a process, and part of the process is that the purpose of the project or the action has to be defined in a not too narrow, not too specific, but the purpose like transmit electricity from point A, B and C, and the alternatives could be different ways to route the lines.

Have lots of small towers.

Put it under ground.

There's all kinds of alternatives that could come out.

>> 2, 11

>> I'm getting there.

>> So the point is I need hard numbers

>> There is no hard numbers.

The point is, the artful part of the law is that it's a process to come up with a good decision.

So you need to look at the purpose of the proposal, and sometimes it seems like there's like one sensible alternative what comes up a lot is say you have a pipeline.

Put it along the highway because it's already disturbed ground.

That's an alternative.

And then like I was in a class yesterday about this, another alternative could be, take the short route, which may not be follow the road, but go through a sensitive bird habitat, but it's the short route.

Well, that alternative could get on the list, but it probably would not get a lot of analysis because the adverse impacts are so obvious.

So in this example, there were, say, besides the alternative of doing nothing, which we have to do, for this hypothetical pipeline, there's like three potential alternatives, but there is no set number except you have to do one project.

You have to analyze no action to put it all in relative comparison.

And that's the minimum.

But that doesn't mean it's a good decision in the process because remember, NEPA is about disclosure and making good decisions.

So if not a few options, like three, three or four, if these options are not analyzed, it's hard to know if a good decision was made because it's not compared to anything.

There's a part for the wonky level seminar, there's a section where potential alternatives that never got much study still have to be explained, you know, like this pipeline could have put it through the rare bird habitat, or it could have gone through the creek of cutthroat trout but we didn't analyze those because that's crazy to go through endangered species habitat.

But you put that in the report so then the public knows at least somebody thought of it, and, therefore, the pipeline along the road, which some people may not like, is still a smart decision.

So when I used to work for another Federal agency, we were looking at mining in Florida.

We had 20 alternatives on our initial list, and we cut that down to six, and we had lively staff discussions about which six made the list.

But it sort of depends, like the other question, this is the art of NEPA, about the context and the complexity about how many alternatives that get to the same answer still make sense to analyze.

So in the strict sense, you can have only two, but that's not very wise because it leaves open questions that things may have been ignored.

I like to think for a moderately complex one, four or five feels good because you have some confidence you've looked at a range of options.

>> I wanted to get my actual question, who decides

>> Who decides?

Well, at Bureau of Land Management, the decision making authority is delegated to our Field Offices and our District Offices.

In my observation, I haven't read a policy document yet about that, it just makes sense because there's a lot of routine stuff that still has to be analyzed.

You know, a road, a pipeline, a grazing permit.

There's just a lot of high volume, hopefully low intensity analysis, and the idea is that people in the field kind of know what's going on and can decide and analyze and know how to make the good decision in the end.

But the way the process works is actually a government official by name and title who signs the document is often the one held accountable when people challenge it.

So it could be the Field Manager or the District Director as a kind of standard way I've observed we do things at BLM in Nevada, but other agencies do things differently and they often have a top down decision making authority.

Like it could be the top official in the whole state is the one who signs you on, or an oil pipeline from North Canada to New Orleans, you know, could be the Secretary of State, could be the one who signs it.

But, yeah, it's sort of delegated for efficiency.

But what we do great at the Nevada office is that when projects get complicated, there's a whole bunch of nerds at the State Office who know hydrology or birds or air quality, and they'll get the draft document through the miracles of email, we get the draft document, and we'll help the people in the field write a better product.

So there's often a lot of fingers in the pie, but eventually it's one person in the field who is a decider.

>> Okay.

That's good.

>> Thanks.

>> [inaudible] grazing subgroup, and the question was how much is enough and how much is too much?

And when we're making those recommendations, we didn't have a good answer to that question, which influenced what our recommendations are.

We certainly understand there's trade offs, and it seems like EAs have been getting a little bit longer every year.

DEQ guidance has 10 to 15 pages, which would be a nice easy read, but reading 150 pages, and I know BLM personnel who's on the ground who should be spending a lot of time in the field, that comes at an expense when we're writing a 150 page document.

That's one of the concerns I have, and I don't know what BLM's direction is, but is there any way to kind of scale those things back and put the necessary information in without overkilling it?

>> Well, you're getting to a point that people notice all the time, and, in fact, sort of the oversight agency, the Council on Environmental Quality, issued a policy document a couple of years ago reminding people, you don't have to make this that complicated.

Just deal with what you need to deal with and not go on with endless background about life since people hunted bison with pointed sticks, which some people have too much background.

So we're supposed to make them streamlined and to the point, and the art of it is how you're defining the initial Federal action or the project, and if the project is kind of open ended, or vague, then the analysis has to be kind of complex.

So an element of an Environmental Assessment or impact statement is called the purpose and need statement, which has to be broad enough to allow different options to get to the outcome but not so broad that almost anything seems like it could satisfy the need, and, you know, I was in a class earlier this week, and there were examples like, the purpose of the project is to provide electricity to citizens of the United States.

Well, like, a lot of things could do that, when all they really meant was a 10 kilometer transmission line in the middle of Utah or something.

So a way to make the documents more concise is to really know what you're asking for, and at the same time, when we go through scoping, sort of people get together and think about the issues, they need to stay on point about what the issue really may be, and they're called issue statements.

So, say for a grazing permit as a potential decision, the question to be analyzed needs to be specific in the form of a question, not like: how will this affect the water?

It should be: a spring is downstream there is a spring or two, and the water level seems to go up and down.

So how will grazing, or whatever, affect that spring water table?

And then people know what to chew on specifically because they learn this great question through the scoping process.

They know what to focus on in the Environmental Assessment.

And there's more and more examples of if the document is defined really well up front, and then it analyzes it and answers the question, it's really hard for someone on the outside to challenge it because it did what it said it was going to do.

But to your other point, Environmental Assessments are often getting bigger and bigger and bigger, and when is it really the same as an Environmental Impact Statement is an awfully fuzzy boundary and it's something my colleagues and I talk about all the time.

I often think in the long term just preparing an EIS, Environmental Impact Statement, from the beginning actually could save time in the long run.

If they're going to do a 400 page analysis anyway, the way things go, just admit it up front.

Just depends on the project, but it's the investment up front to really define what you're doing, which, therefore, reduces vulnerability that the analysis wasn't good enough.

And a lot of really big documents are because it's too broadly defined.

>> So maybe I'll just follow up on that, and maybe something from the District Managers would be helpful.

You know, if you know your people are sitting there writing 150 page document when they could be writing a 10 to 15 page document, but you're the ones who are on that decision, you know, is there any way to scale that back so they get that time to go out and actually do the monitoring in the field, do those things, or is that never going to happen?

>> [inaudible]

>> You know, part of this entire process that we're discussing here has to do with data collection, information collection, because, after all, without the information, without the monitoring, you can't do the analysis.

So, generally, before or during the process of going through NEPA, there has to be an investment in the monitoring and the data collection for the analysis.

So it's all connected.

>> Yeah, you know, our grazing subgroup was put together to help make recommendations for BLM to get morning of those EA's done, those permits processed, and I'm just thinking, if I'm sitting if I'm a

Range Specialist sitting in the office writing a 150 page document there's something else I'm not able to get done.

But if I could get that done in 10 to 15 pages and I could get started on the next one so I could get caught up, that would make sense to me.

And so I guess I'm asking, do you guys see that as an inefficiency?

Can we address that?

Can we make things more concise so we can get ahead?

>> Well, I think you know, NEPA it is what we make it, and generally it's evolved over the last number of years in response to litigation and appeals, and every time there's a decision that's made, and routinely we get challenged on NEPA, and I'm talking broadly as an organization, if a judge determines we failed to comply in one or more instances, then we go back and we address that and it generally adds to the analysis.

So that we can continue to be defensible.

But I think from my perspective, there's always ways to become more efficient, and that's a direct relationship to how effective we're managing our offices, because we all have conflicting priorities, staffing limitations but we still have a responsibility to get the job done.

So, yeah, there's ways to be more efficient opinion I think in Nevada we've talked as an SLT in many instances about how to become more efficient in our processes.

But, on a side note, my predecessor, on his way to retirement, Jerry Smith, gave me an EA from 1974, and it was a one page document, and it was a checklist.

We're going to do this.

This is the Federal action.

Does wildlife exist?

"yes" or "no."

That was the analysis.

And it was a one pager, and I've got it in my office.

So we've come a long way since then, I would imagine.

>> We've had some updated guidance since then.

>> Yes, that's the company line right there.

Updated guidance.

>> I'll offer in here, one way for sort of routine actions to be analyzed quickly is where people in the field could have good access to high quality products to use as a template, and I was in a class earlier this week where people brought their draft EAs, Environmental Assessments, and they were comparing what they had written up or what they inherited from someone in their office who has been recycling a document for five years, you know, save under a different name, and we compared it to sort of like an ideal efficient, concise one, and all kinds of revelations came out about how to stop running around in verbal or written circles, how to stop chasing your tail to here's some concise language, just use it routinely, and at the Nevada State Office in our districts, we're tightening up how to share documents through E planning, the NEPA register, which the public can get to as well, and so we're going to be more aware of who is doing what out there in the field, because we can find successful EAs that get to the point and don't take a lot of time instead of entry level staff kind of rethinking it all the time.

So I'll just pitch it for better statewide coordination and file transfers as a way to be more efficient.

It was very illustrative the last couple days in this class about people bringing their documents and some people were way off point.

And they leave the agency vulnerable in the end if the document missed the point, it could be challenge, and so everyone is kind of anticipating that.

>> One more?

>> All right.

Do you have a quick one?

>> I do have a quick one.

>> The gentle woman from Carson City.

>> So Raul told us this morning that the greater sage grouse amendment had 15,000 comments.

So that's a challenge that BLM is going to have to deal with.

So can you talk to us about do more comments that support a particular position influence agencies' decision?

>> Well, in the broad sense that's sort of policy and politics, but under NEPA, no.

More comments or redundant comments do not change the facts.

So say in the sage grouse plan, which just closed the public comment period, it could have 5,000 comments that specify, we think your map is wrong because of this, this and this.

One person who can explain why the map is wrong is helping BLM just as well as 10,000 people saying the map is wrong.

If the bird is or is not there, it is or is not there.

And it's not a democracy under a NEPA analysis.

It's just the facts.

So one clarification of a fact is just as good as a thousand.

As we know, in big, high profile proposals, people just say, I love sage grouse, I hate sage grouse, I love horses, I hate horses, too many horses, not enough horses, whatever.

It's still only needs to hit the point once to have the document reevaluate between the draft and the final.

So this comes up a lot, and it just sort of highlights that NEPA is a decision making process, not a final policy interpretation.

It's just that the decision has to be informed.

Okay.

Thanks.

>> And that's our time.

[applause]

>> My next presentation will have more cartoons, more animation, and more maps.

>> Thank you.

>> Actually, that is right.

We ended just on time.

So now what we're going to do is get into your breakout sessions.

Unfortunately, we've only got two rooms, this one here and then Gallery 3.

So what I would ask that if, whichever RAC has the large amount of members here, they could take Gallery 3.

I'll let you guys fight it out.

But they take Gallery 3 and the other two could meet up.

Because I know the Southern Nevada contingent is fairly small this year.

We've got two hours for your break out session.

We start the public comment period at 4:00 p.m.

So we would like you back by then.

We're also going to be serving snacks at about 2:30.

>>> Yes, sir?

>> [inaudible] given as how the appointment, reappointment letters have yet to be issued, and we may or may not meet quorum requirements, and one of the key actions for this meeting is election of officers, how can we proceed on those items on our individual RAC agendas?

>> If there are decisions to be made right now and you don't have a quorum, then you could defer the decision until the nomination letters come through and hold your votes via email or some other method, and you can just have the discussion now in terms of what you want to speak to.

>> Okay.

We'll sort through that, and unless my RAC throws something at me, we would like to offer the following recommendation that historically we had the Tri RAC in November and the appointments coincided with that period of time and enabled us to put together work plans at the beginning of the year and begin implementation of them in the appropriate calendar year.

Here we are in February for the Tri RAC.

We don't have all the appointments and our RAC fully functional.

So a strong recommendation to interior, please, that it would be really good to have the appointments in place by the time we have the Tri RAC and push the thing back into the tail end of the preceding year.

You guys good with that?

>> Yep.

>> Apparently my RAC concurs.

So...

>> Thank you for the input.

That's one thing we have discussed at the State Office is ways to streamline the nomination process and hopefully reduce the amount of time it is taking.

All right. You're free to go to your break out sessions.