



NEPA Streamlining Tools and Techniques

BLM Renewable Energy Summit

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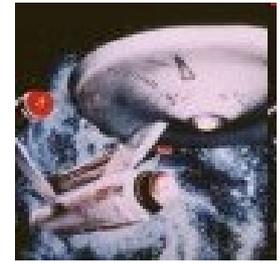
September 2, 2009



The Art of NEPA



NEPA under ARRA and the New Energy Frontier



SUCCESS = 1 + 2

1. Projects on the ground
2. Compliance with NEPA and all environmental laws

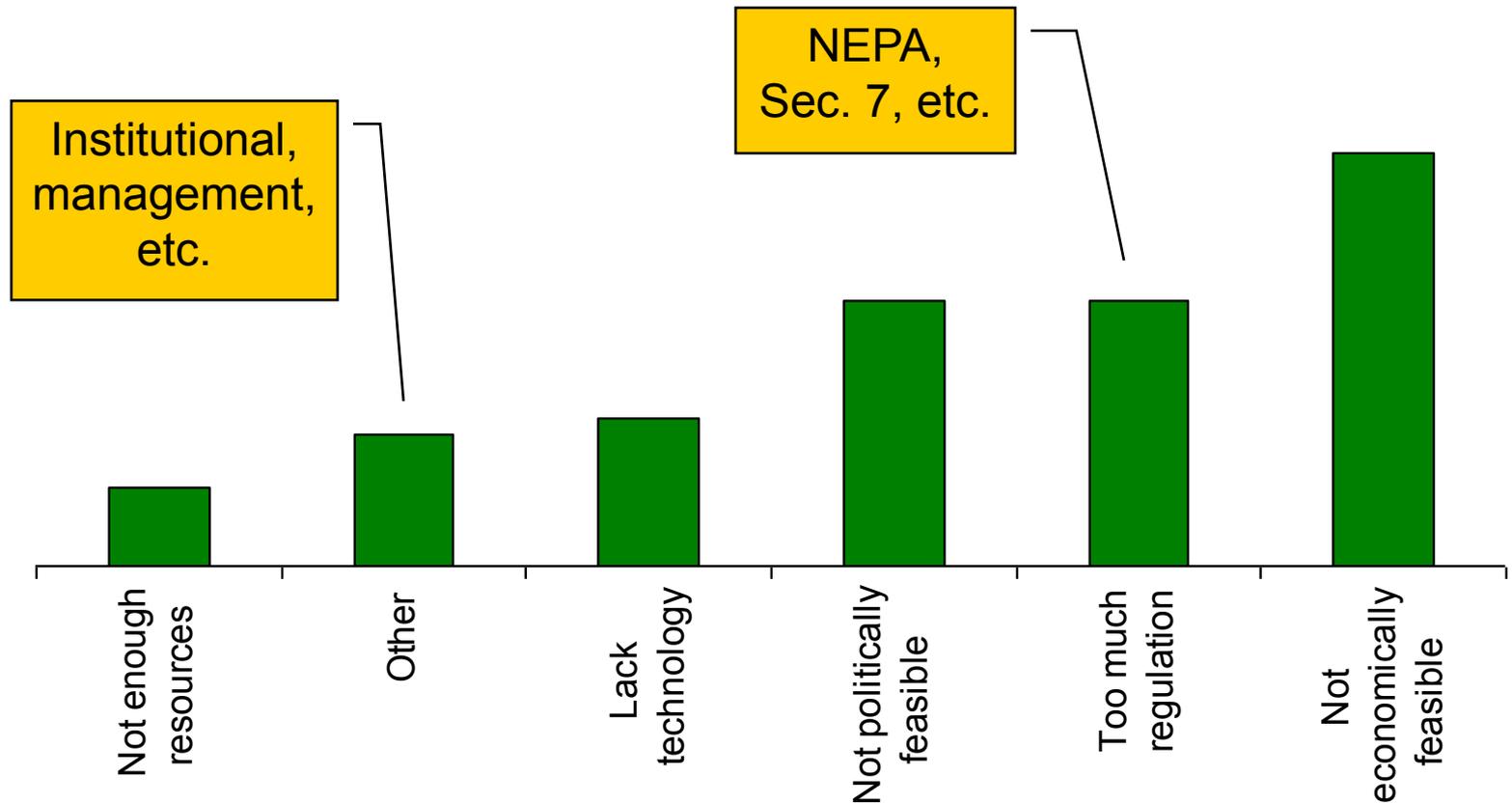


Is Success Attainable?

- Energy and transmission line projects are complex and multifaceted.
- National and Western Governors Associations identified the following as barriers to energy development:
 - Federal regulatory processes (e.g., NEPA)
 - Federal agency priorities and performance



Why respondents think we will not reach renewable energy targets?



Source: EMPSi Survey on Renewable Energy, May 2009.

Is Success Attainable?

Is the problem real? Yes!

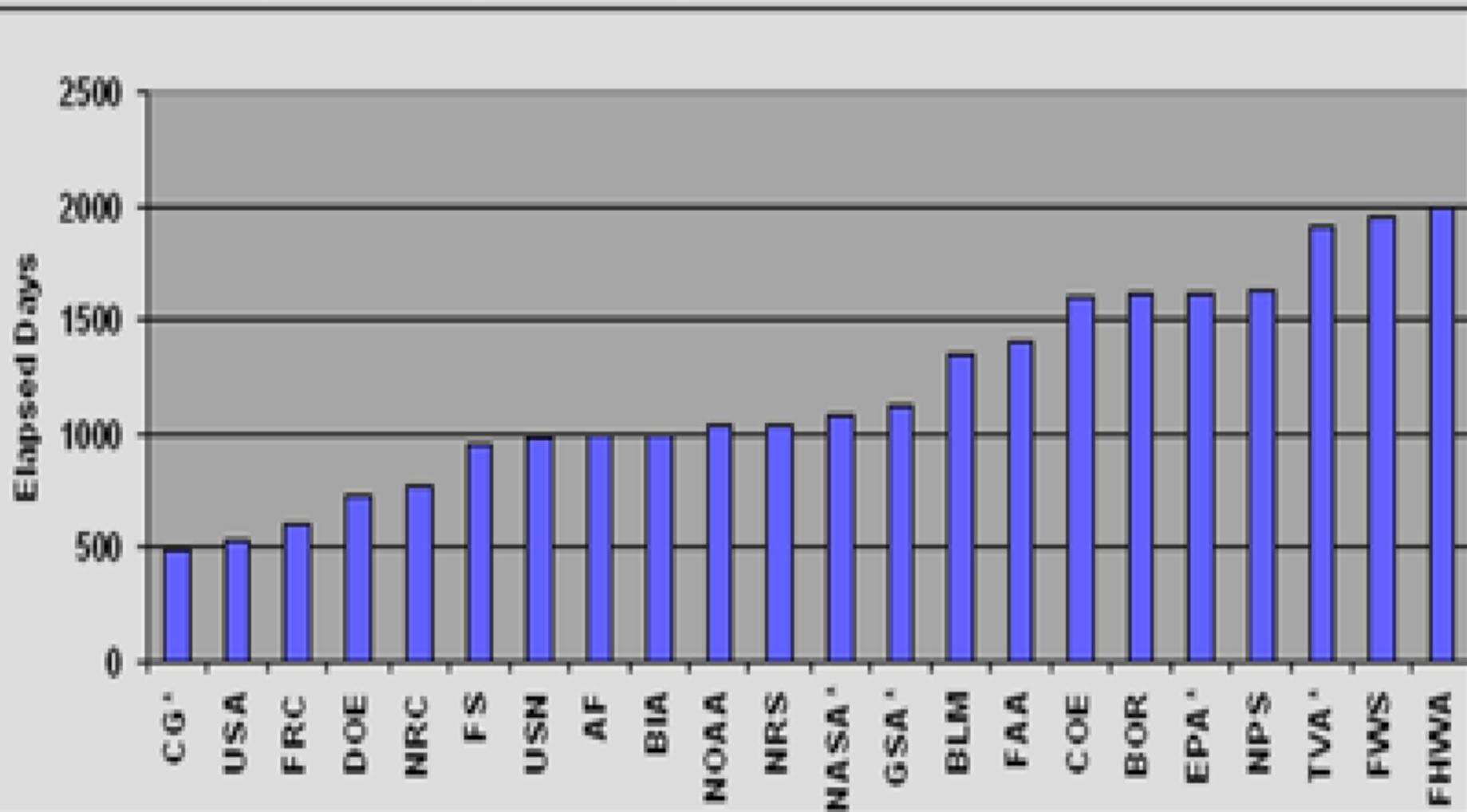
Can it be overcome in a timely manner?
Yes!



How long does NEPA take?

EMPSi Research on EISs

NOI to FEIS Elapsed Time (2005-2006)



Do NEPA processes have delays?

- “What percent of your projects were delayed?”
 - BLM 42%
 - BOR 54%
 - FS 67%
 - NPS 52%
- Top Reasons?
 - Decision-makers changed project
 - Project was challenged in court
 - Poor document; needed to be re-done
 - Alternatives changed or added
 - Coordination with ESA & other natural resource regulations



Survey

Does NEPA lead to better projects?

Responders felt that NEPA leads to a better project because

- we better define the project description and any alternatives early in the process.
- NEPA facilitates internal discussion and analysis that might otherwise not happen



Is NEPA the problem? No!

Considering anything you deem relevant, which of the following is more likely to account for a delay in a project?

32% NEPA process

68% Factors outside of the NEPA process



Case Studies

- Geothermal Leasing in the 12 Western States Programmatic EIS = 18 months
- DOE First Renewable Energy Loan Application EA = 4 months
- Coast Guard Nationwide Programmatic EIS for Deepwater Program = 14 months
- Coast Guard National Programmatic EA for Reorganization = 6 months





Institutional Keys to Success

- Selection of strong, capable, committed project managers
- Clear communication and follow-on support for the projects by senior political and executive leadership
- Coordination, cooperation, and group hugs between agencies





Institutional Keys to Success

- Maintain centralized control of the review process
 - Create regional centralized NEPA task forces to manage and control expedited projects
 - MOUs with regulatory agencies for expectations and timelines (*see SAFETEA-LU 23 CFR Sec. 139[d]*)
 - Involve regulators in developing mitigation



Institutional Keys to Success

- Educate legislation for streamlining
 - Healthy Forest Restoration Act
 - Vision 100-Century of Aviation Reauthorization Act
 - SAFETEA-LU
 - Energy Policy Act of 2005





Managerial Keys to Success

- Attributes of successful managers:
 - Core technical, managerial, and diplomatic skills; demonstrated agility; and are residents of the project area
 - Good managers do not need to be NEPA experts; they excel at managing processes
 - Support by senior executives and political leaders who are committed to renewable energy





Managerial Keys to Success

- Enact innovative project management
 - Subject matter managers
 - Develop project templates to guide development of similar projects (e.g., P&N)
 - Case study: Army NEPA for BRAC actions
 - Use supplemental EAs to update existing documents
 - Use technology to reach out to agencies, stakeholders, etc.



Procedural Keys to Success

- NEPA is not the boogeyman





NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

(Public Law 91-190)

AN ACT To establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969".

[42 U.S.C. 4321 note]

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

[42 U.S.C. 4321]

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of





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Procedural Keys to Success

- Follow the intent of NEPA
 - Informed decision making and public disclosure
 - The courts do not expect perfection
 - Let a draft be a draft
 - Hard look, rule of reasonableness, and good faith effort
- Use appropriate scope
 - EA is not a mini-EIS



Five Reasons NOT to do NEPA

- Action is Congressionally exempt
- No federal action or nexus
- Proposal does not exist
- Project is not ripe
 - Conduct due diligence to verify project's validity
- Action is covered by another NEPA document
 - Programmatic EIS or land use plan



Top Ten List: Tools to Survive Renewable NEPA

1. NEPA is value engineering
2. Involve management and leadership throughout the process
3. Well defined Purpose and Need Statements



Top Ten List: Tools to Survive Renewable NEPA

4. Well defined proposed action
 - Who, what, when, where, how?

5. Keep it on scope
 - Issue driven (BLM NEPA Handbook 6.4)
 - Impacts proportionate to their significance



Top Ten List:

Tools to Survive Renewable NEPA

6. Implement Innovative Ideas!

- Require DOPAAAs
 - Develop a complete project description and purpose and need early and get buy off!
- Adopt adaptive mitigation
 - Interagency cooperation is developing acceptable methods to address uncertain impacts



Top Ten List: Tools to Survive Renewable NEPA

7. Set a schedule and stick to it!

- Staff for them
- Build in critical paths
 - Consultation
 - NOI/NOA timelines
- Overlap independent tasks
 - Governor's consistency review with protest
 - Affected environment with scoping



Top Ten List: Tools to Survive Renewable NEPA

8. Remember - Presentation is everything!

- Present data effectively
- Prepare concise, public friendly documents
 - Majority of citizens tested showed no better understanding of a project after they read the project's EIS document than they had before they read it. (Univ. of Illinois, 1996)



Top Ten List: Tools to Survive Renewable NEPA

9. Use Strike Teams to develop, review, and complete documents
 - PM, P&EC, Public Affairs, solicitors, resource program staff, writer editor, etc.



Top Ten List:

Tools to Survive Renewable NEPA

10. Communicate, communicate, communicate

- ✓ Do not limit public involvement!
- ✓ Conduct proactive outreach
- ✓ Meet early and frequently with stakeholders
- ✓ Establish expectations and issues
- ✓ The public is not the boogeyman



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