

2016 Lean Event: Colorado Water Supply Permitting: *Initiation of NEPA & Scoping*

Early Stakeholder Engagement Framework

Consensus Draft – 6/28/16

Summary

Brief statement of the problem: The scoping process under the National Environmental Policy Act (NEPA) is intended to be an early and open process for determining the scope of issues and alternatives to be examined in a Draft Environmental Impact Statement (DEIS). The NEPA process works best when agencies, the public, and other stakeholders shoulder the responsibility to express their concerns early in the process. However, DEISs are often developed without fully anticipating the issues that may be raised later in the process in comments on the DEIS. Additional data collection, analyses, and studies, while sometimes necessary, can increase costs and further delay decision-making. This can be caused in part by insufficient communication between Potential Applicants, non-governmental organizations (NGOs), and other key stakeholders before and during NEPA scoping. Potential Applicants and agencies may fail to anticipate key issues of importance to NGOs, local governments, and the interested public, while NGO and public commenters may fail to understand matters important to project proponents. As a result, project proponents may not consider all potential and reasonably practicable alternatives prior to DEIS development. This may be due to a lack of knowledge surrounding either the range of potential concerns associated with project impacts or the universe of available alternatives. This also may lead to a situation where NGO scoping or DEIS comments may not be helpful or useful to the NEPA process.

Brief summary of the solution: As a best practice, Potential Applicants, key NGOs, and other public stakeholders (property owners, local community and business leaders, etc.) should meet and discuss their perspectives as early as practicable in the Potential Applicant's water project planning process. The goals of early engagement are to inform, promote agreement where possible, and help narrow the scope of contested issues prior to investing in a costly and time-consuming DEIS process. Successful implementation of this Framework should, at a minimum, result in higher quality scoping materials, as well as better informed and more comprehensive comments from the public and NGOs.

Engagement Framework

When should Potential Applicants begin engagement with key NGOs and members of the public? Potential Applicants are encouraged to engage key NGOs and members of the public at the earliest practicable time. It is recommended that Potential Applicants consider seeking input from key NGOs and the public prior to initiation of the NEPA process. In many cases, the earliest practicable times may be when the Potential Applicant identifies specific water needs or begins detailed studies of specific projects that are expected to involve the NEPA process.

All stakeholders may benefit from engagement during the early stages of project formulation because the dialogue can focus on how best to meet water needs while minimizing impacts to

the natural environment. At this stage, though Potential Applicants may have narrowed the scope of potential alternatives, they may not be committed to any single alternative or, at the least, remain open to project modifications and mitigation opportunities. Further, NGOs and key members of the public would benefit from a more detailed understanding of the Potential Applicant's need for water, including any operational, legal, and institutional constraints.

With whom should Potential Applicants engage? As a general matter, the Potential Applicant should consider making reasonable efforts to identify and contact key NGO and stakeholder groups who are directly affected by the proposed project or alternatives, and have a history of engaging on similar projects.

The following list may help Potential Applicants identify which entities or groups to contact:

- The Potential Applicant's citizen advisory group (if one exists)
- Entities and persons directly affected by the proposed project or its alternatives
- Entities who have a history of engaging on similar projects. Entities and persons who commented on other NEPA processes for similar water supply projects in similar areas of Colorado in the recent past.
- NGOs with relevant expertise and interest in potentially affected resource values
- NGO-affiliated members of affected Basin Roundtables
- NGO-affiliated members of the Interbasin Compact Committee (IBCC)
- Entities and persons who live near or have a significant interest in the geographical areas that could be impacted by a potential project. These entities could include NGOs who seek to protect a particular county or sub-basin, business owners, such as local watershed organizations, homeowner or neighborhood groups, and local governments.

Potential Applicants will need to consider the number and scope of the groups with which they plan to engage, and their openness to a constructive dialogue, while taking into account the potential benefits from increased input and the additional time, cost and resources required from increased input.

What is the scope of Potential Applicant - NGO engagement? The purpose of this Framework is to improve communication between Potential Applicants, NGOs, and key members of the public to promote agreement where possible, and narrow the scope of contested issues. In all cases, this Framework should foster understanding of different viewpoints and allow stakeholders to provide input regarding their potential concerns and potential project alternatives, including modifications or mitigation to project proposals. This would allow for additional perspectives and other possible ideas to be more thoroughly explored prior to investing time and other resources in the NEPA process. Potential Applicants, NGOs, and key members of the public should establish appropriate expectations and roles, as well as a set of milestones associated with a defined timeline. Stakeholders should understand that they are not required to reach consensus on any or all issues considered during the engagement process. Engagement is first and foremost an exercise in listening. The primary goals of engagement are to promote greater understanding of diverse stakeholder perspectives and improve the quality of the information

presented to the agencies during scoping. Participation in stakeholder engagement is entirely voluntary. Any stakeholder, including the Potential Applicant, may withdraw from engagement at any time.