

GUARDIANS OF THE RANGE

Office of Executive Director

Kathleen Jachowski

217 Road 6EH

Cody, WY 82414

guardians@hughes.net

307-587-3723

www.guardiansoftherange.org

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RE: Revision of BLM's Wind River-Bighorn Basin RMP

(Worland & Cody)

TOPIC: Open/Closed Cooperator Meetings under NEPA

Follow up to discussions over past 18 months

Don Simpson

Eddie Bateson

State Director - BLM

District Manager

P. O. Box 1828

Wind River-Bighorn Basin

Cheyenne, WY 82003

Worland, WY 82401

Dear Messrs. Simpson and Bateson:

This letter is the promised write-up by the Guardians of the Range dealing with the opening of cooperator meetings to other interested publics while the draft EIS is being developed.

At this juncture in this NEPA process, we are not pushing to have them open. It would be a welcome change, but we are willing to apply damage control through our own organizational efforts.

Reigniting a public firestorm is not the purpose of this write-up. Improving things for future NEPA efforts is at the heart of this carefully considered paper.

When I last spoke with each of you; I indicated that this paper would be given wide circulation, done with good intentions and no purpose of venting frustration or pointing fingers.

I indicated that the reasons for doing so would be:

- To clarify for the record the position of the Guardians of the Range,
- To provide in writing a useful reference as to the benefits and appropriateness of integrating an extremely valuable and much needed group dynamic into this complex, costly and significant NEPA process,
- To provide a wider audience the opportunity to reflect upon these NEPA considerations.

The reoccurring challenges of *public input processes* like NEPA include delivering a *consistent* message, as well as making certain that such a message(s) is *consistently*: **heard, understood, relayed, referred to and to some degree incorporated into the *development considerations* of all NEPA documents.**

This controversial subject of open cooperator meetings, with its underlying public frustrations and misunderstandings, relative to whom the BLM allows to sit in on *cooperator meetings* and why the BLM does so, deserves genuine reconsideration by the agency.

It is our position that cooperator meetings (as recognized under NEPA) should be open to (observers) non-cooperators to *attend* for the purposes of listening and providing productive input/insights, *only at appropriate times or venues*, to the recognized cooperators in a NEPA process.

(Pre-decisional status addressed elsewhere.)

Such appropriate public access to NEPA processes provides incredible value intellectually, fiscally and procedurally. How so?

INTELLECTUAL VALUE

Under NEPA, *elected* officials qualify for cooperator status in the development of environmental impact statements and environmental assessments. These elected officials *generally* mean representation by county commissioners, conservation district supervisors and representatives of state government. Of course, other *elected officials* are also eligible for cooperator status if they request it.

Not all *elected officials* who are assigned the duty of participating as a *cooperator* in a NEPA process come to such efforts with federal policy or NEPA process experience. This lack of experience puts them, their constituents, and the development of a quality document at a disadvantage.

It should be recognized and appreciated by federal agencies, that their own careers are always being executed within federal public policy frameworks. Thus these 'public input processes' are pretty much second nature to them.

Elected officials, however, can change with each election cycle, resulting in constantly fluctuating skill sets, knowledge bases and experiences when it comes to helping to develop or revise NEPA documents.

Many newly elected officials have no way to fully and quickly understand how important *quality* cooperator involvement in the NEPA process is to the socio-economic lives of their constituents. The impacts (acute & chronic) of constantly fluctuating skill sets, etc. essentially go unrecognized within the general public and federal agency arenas. We need to change and mitigate these impacts if we, as a nation, are to improve the effectiveness of NEPA and other such public processes.

One of the easiest and most cost effective ways to improve on this Achilles heel of NEPA is to allow members of the public to sit in on these meetings, make notes of what is being said and afford these observers appropriate opportunities to bring up ideas and concerns to their elected officials and agency participants, who may have no familiarity with a particular issue, industry or interest area.

It is fully recognized that members of the public have the right to contact their cooperators and ask how things are going. HOWEVER, such conversations are of limited value when a cooperator might not realize that they have missed something, or that a particular proposed action might have serious negative consequences, or simply can't recall all details of a long meeting. No cooperator can be expected to know or recognize all the things of importance, that's an unreasonable expectation. Consequently, an *after the meeting conversation* is not the 'informational safety net' some would suggest it is.

Additionally, a public process reality that should be both recognized and respected by federal agencies is that many people are just not comfortable questioning their cooperators. Regardless of why such personal reluctance exists, our agencies should consciously facilitate bridging that gap by allowing interested parties to attend cooperator meetings and backfill with information and perspectives where necessary.

In fairness to the elected officials serving as cooperators, not all of the affected interests and needed expertise resides with them just because they are 'at the table'.

However, federal land agencies have as part of their ID teams and staff, the credentialed and professional resources upon which to draw.

Allowing non-elected but knowledgeable folks in various disciplines to sit in, listen, take notes and later confer with their cooperators helps to:

- mitigate the impacts of fluctuating skill sets, and educates the cooperators,
- fill out the bigger picture of considerations and ramifications before a draft document comes out,
- catch many mistakes early in the process
- clearly sends the message to the American public that the federal agency is genuine about obtaining AND considering their input in the interests of producing a top notch and well balanced environmental document,
- recognize that a federal agency is not the only repository of solid information.

The above represents the intellectual value in allowing observers to attend cooperator meetings.

FISCAL VALUE

Fiscal value is manifested by private enterprise and private interests picking up the costs of consistently sending knowledgeable people to cooperator meetings, to listen on their behalf and provide valuable information, insights and credible data that might not otherwise find its way into the NEPA discussions.

Fiscal value is also provided by the attendance of knowledgeable private enterprise observers in the many, many situations where counties and/or conservation districts simply cannot pay for highly qualified consultants/contractors to help write the document.

The national economic situation is only going to exacerbate finding the required financial resources that state, county and municipal elected officials must bring to the table as cooperators participating in a NEPA process.

PROCEDURAL & GROUP DYNAMIC VALUE

I have had it said to me by BLM staff that it can be aggravating and seem nit picking when cooperators hire consultants or contractors.

The comments and 'heads up' on things that these contractors catch and request corrections, on are some of the very things that prevent a final document and agency from ending up in court.

One only has to take note of how many lawsuits have been lost over violations of NEPA procedure and process to gain respect for a second and third set of 'eyes on the prize'.

NEPA is not free, and our nation cannot continue to expend years, money and untold intellectual capital only to have it all go down an administratively and procedurally flawed legal black hole!

Federal agencies must hold themselves accountable for these losses. Why not welcome the helping hand and watchful eye of contractors and interested observers who help to catch errors as a NEPA process unfolds?

The false comfort zone of CLOSE OUT and KEEP OUT!

Relative to open cooperator meetings and the particular RMP revision cited in this paper, the BLM sought input from some livestock producers, asking them if they thought cooperator meetings should be open to the public.

The agency indicated to me that those folks said no; that they did not want big battles with anti-grazing groups in those meetings. Consequently, the BLM felt validated with their 'keep out' position.

Let's take a close look at this understandable but weak validation, and how the livestock and all publics are under served and left under defended by such a posture.

Understandably 'no' would be the more than likely response. Most individual/special interests would prefer to not have a big fight----as though there would necessarily be one in such meetings. Folks understandably want to get on with their lives with as little conflict as possible, and the mind set of '*the less that protagonists know about our lives the better off we are*' seems like a great defense. Not so!

What any individual or special interest group misses with this 'duck and cover' approach to NEPA discussions is that having knowledgeable people in these meetings helps cooperators understand and/or not miss the significance of an important point. The presence of such non-cooperator expertise in these meetings is their best defense.

This 'duck and cover' approach also naively assumes that cooperators possess sufficient knowledge to adequately represent their interests just because they have cooperator status.

Polling special interest individuals elicits more of an opinion than it does an insight, based on first-hand experience of what goes on in a cooperator meeting and the potential ramifications. Agencies working with NEPA need to recognize both the subtle differences and the greater value that insights have over opinions.

SPECIAL TOPICS AND CONCLUDING COMMENTS

Unintentional Insults:

BLM personnel are on public record, more than once, that allowing outside interest groups (not qualifying for cooperator status) to sit in on these meetings would create a situation that they could not control. That many of those outside groups would not conduct themselves in a polite, civil and appropriate manner. Their presence would be disruptive! This is an insult to Americans and should be an embarrassment to the BLM.

The public expects their BLM to know how to handle situations if they arise, have the courage to promptly do so and to not hide behind such an unprofessional and transparent barrier.

The US Forest Service allows for open cooperator meetings on NEPA processes, and has not been faced with chaos and disruption. They are on public record to this affect.

It is confusing and counterproductive for 'cooperators' to have their meetings handled differently between these two national agencies. The US Forest Service operates under the same state public meeting laws as the Bureau of Land Management.

The difference in handling these meetings speaks volumes about which agency clearly recognizes and demonstrates a respect for the intent of NEPA and the processes (inclusiveness needed) to fulfill that intent.

Pre-decisional Confusion:

The Guardians are encouraged by the BLM's effort to clear up earlier confusion and frustration caused by agency personnel characterizing the cooperator meetings for this particular RMP as 'pre-decisional meetings' therefore; outside interest groups could not be allowed.

The agency should make certain that this misleading, confusing, incorrect and premature use of this term does not continue to surface.

We all know that the discussion of pre-decisional subject matter is not part of early cooperator meetings, and that it is actually a rare animal in the public process.

The agency should endeavor to not unintentionally or mistakenly use this term unless it is appropriate. It has created much misunderstanding, intimidation, skepticism and resentment in this RMP process. Having made our point we will not belabor the issue except to express our appreciation for the course correction we have seen in this regard.

Finally, and at long last! We appreciate the agency's expressed interest in hearing our concerns and perspectives.

The Guardians of the Range value the NEPA process and what it can do for responsible stewardship of our nation's natural resources and for strengthening the socio-economics of our cultures and customs.

We look forward to strengthening our partnerships with the federal land agencies with which we share the public landscape.

Sincerely,

Kathleen P. Jachowski

Executive Director

Guardians of the Range