

>> M. Conry: The 1988 handbook did not give extensive guidance on public involvement during the NEPA process and we all know that the BLM frequently interacts with our public during the NEPA process, and keeping in mind that there are a lot of questions about this topic with the handbook revision, we address public involvement in chapter 6, chapter 8 and chapter 9 of the handbook. Some of those common questions about public involvement relate to, when do I have to do public involvement? How much do I need to do? Who should I involve? And at what step of the process? I'm going to go over a few of those questions just lightly today. The BLM first of all is not required to involve the public in CXs or DNAs. Tim, I hope this answers your question. You may however choose to do so and if you're thinking about a project particularly complex or highly controversial, you may want to involve the public early in your NEPA process, and the benefits to doing that are very similar to the benefits of involving the public early on an EA. or an EIS. We specify to DNAs specifically at 5.1.2 in the DNA chapter of the handbook. In regards to EAs, you must have some form of public involvement during the preparation stage of your EA. This is a change from the 1988 guidance, and this change comes from our discussions with the council on environmental quality. When working with CEQ on the NEPA Handbook revision they clearly articulated that it's their interpretation of the NEPA regulations that we are required to involve the public at a preparation stage of the EA. That's prior to a decision. So we recognize this is a substantial change from past guidance and from many current practices around the BLM. However, you have discretion, though, over how and when you would involve the public during the preparation stages of the EAs, and there are many ways to accomplish this. It may be best to scope your EA or you may choose to offer a comment period prior to

making a decision, actually putting the EA out for 30 days. A lot of offices are already doing this. Anyhow, regardless of how you choose to determine -- or choose to involve the public, it's up to you. You have a little bit less discretion on involving the public during the preparation of an EIS. The CEQ NEPA regulation speaks specifically to involving the public during the preparation of an EIS at two particular phases, first at scoping and second the comment period that comes with the release of your draft EIS and that, of course, is covered in detail in chapter 9.

>> T. Milesnick: I know a lot of the field offices and district offices use a NEPA log to keep track of their environmental documents. Would the posting of those NEPA logs be sufficient to meet the public involvement test?

>> M. Conry: Ted, that's a great question. I probably have a less than satisfactory answer in that it depends. If an office is only posting an EA after the decision record has been signed, I think that it would probably be insufficient because the public hasn't had an opportunity to be involved in the actual preparation of that EA having some sort of say EA format eventually in the outcome. That said, the NEPA slog a great way to transmit information, whether it's scoping notices or posting documents pre-decisionally. So I think it depends a little bit. Use your best judgment and definitely make sure the public has an opportunity to be involved during that preparation phase.

>> C. Humphrey: So what you're saying is the handbook, it doesn't describe what type of public involvement or how you do it or how much you do or anything like that. It's entirely dependent on the situation. But one of the important things is it has to be in the preparation of the EA and not just showing

them when you're done with it?

>> M. Conry: That's exactly what we heard from CEO.

>> C. Humphrey: That will certainly be a change from a what a lot of folks are doing.

Question:

>> C. Humphrey: We have Ralph from Oregon.

>> Participant: Can you hear me?

>> C. Humphrey: Yes, go ahead.

>> Participant: This is Ralph Thomas from Roseburg, America. Megan made a comment there is no public involvement in CXs and in Oregon we have several new forestry CXs we've been encouraged to develop public input for these processes. Is it an absolute that we do not need to have public comment periods on the CXs or is there a mechanism for this or is there a conflict if that we do public involvement for these forestry CXs will that drive us to do public comment to all the rest of our CXs, such as salvage along roads, road maintenance, et cetera?

>> M. Conry: Ralph, that's a great question. Thank you. I am familiar with those new CXs and the NEPA Handbook is written to a national audience and there is no national requirement that we involve the public for categorical exclusions, for most categorical exclusions. I know that the state of Oregon is hoping and recommending that you consider doing some public involvement in regards to a few of the forestry CXs. That's not a national requirement. And I think it's still largely at the discretion of the manager. We're always free to do more than we're required to. Just

because there's no requirement to involve the public on CXs doesn't mean that we can't ever do that or wouldn't ever want to do that. In the handbook we think -- or we raise the issue of particularly controversial or highly complex CXs. Some of the projects put out under the HFI CX are difficult. It might be a good idea to contact adjacent land owners and get community involvement. In regards to setting a precedent for all other CXs, I certainly understand the concern of that and I think it's up to management and NEPA coordinators where if they choose to engage the public on a CX explain why and explain that it may not be something that we always do -- I don't know. Does that help answer the question a little bit?

>> Participant: Yes, it does.

>> C. Humphrey: Anybody else have --

>> R. Hardt: Remember that one of our guiding principles was that we weren't going to create new requirements. It's fully appropriate, though, for individual states or programs to be saying this is how we want you to implement your NEPA process, but we weren't going to provide those requirements unless we could trace it back to law, regulation or CEQ guidance or Departmental manual.

>> C. Humphrey: I hope that answers your question.

>> Participant: Yes, it did. Thank you.

Question:

>> C. Humphrey: Now, I think, was it Ken that I asked you to wait?

>> Participant: Yeah, this is Ken. On the same

topic, but this has to do with grazing administration, we have 11 regulatory requirements for involving the interested public within the grazing regulations. Now, this may not be the same as the general public with respect to NEPA, but I guess I would want the panel to sort of discuss the programmatic requirements for involving the public that may not be present in NEPA but are very much present in other requirements such as the grazing regulations.

>> T. Milesnick: I think that's a good point to make. The other kind of requirements, whether requirements or statutory requirements, when we're making a decision or issuing grazing permits if there's requirements such as that you would need to complete those requirements. They can be done at the same time you're doing a NEPA analysis. They're not really a NEPA requirement but they are requirements that must be addressed and must be complied with prior to making that grazing decision. Does that address the question or concern?

>> Participant: Well, somewhat. I guess the blanket statement that CXs and DNAs do not require public involvement have the potential to be confusing to some of our staff. So I just wanted to make sure that point was made that when there are programmatic requirements for involving the public and efficiencies can be gained through taking the action forward and that same action is required by the grazing regulations to involve the interested public, and even though it's covered by a CX, involve the interested public.

>> T. Milesnick: That's correct. You would need to involve the public. And so I would say in that case you're kind of separating the regulatory requirements for public involvement with our CX requirements. So you would need to

go ahead and do that public involvement requirement that you mentioned then.

>> C. Humphrey: I think --

>> M. Conry: I think that's a good clarification. The HFI CXs actually have some specific language about public involvement in them and there's some steps there any office -- office utilizing those CXs would need to go through, and some of those specific nuances to those specific CXs are articulated in the handbook.

>> T. Milesnick: Right. The hazardous field CX requires that the action being taken be discussed with the public. That's one of the requirements of the CX for it to apply to the project. So those offices that are still -- have use of that CX should be aware of that, that the action needs to be developed through a collaborative process with the public.

Question:

>> Participant: This is Tim Burke in Alturas again. Back to that public involvement with CXs and DNAs, it would seem like you definitely need to involve the public in the decision that arises from the CXs or DNAs, so wouldn't it be appropriate to at least share the CX or DNA with them at the time you shared the decision with them?

>> R. Hardt: Whether or not you need to provide public notification of a decision is going to depend largely on program specific requirements. It's certainly within a manager's discretion to involve the public in review of a CX or in the preparation of a DNA. What we were trying to do is establish what are the minimum requirements that you must observe every single time you do it, and what

we're saying is that there is not a minimum requirement from NEPA, from CEQ guidance, from the departmental manual on involving the public in the preparation of a DNA or the review of a CX.

>> Participant: Okay. Got it.

Question:

>> R. Hardt: Yes. We had a fax from Steve in Coos Bay and it says that we always release the FONSI and EA for public comment. The handbook recommends releasing an unsigned FONSI. What would be the next step? Would we have to send then the signed FONSI out for comments or would we simply sign the FONSI and post it? Yes, we recommend putting out an unsigned FONSI because once you've signed the FONSI, you've made that finding a there's no longer an opportunity for review. There's no longer an opportunity for the public to provide input to it. It doesn't really engender public involvement to say we've made this finding. Were we wrong? So what I would recommend, and others chime in, you send out the unsigned FONSI. If you get any comments that require you to make changes to your EA, these will probably, if these are substantive changes, they will probably need to be reflected in changes in the FONSI. You would make those changes and sign it and then post it. But, no, you would not then need to send out signed FONSI for another round of review.

Question:

Megan, did you want to take your fax?

>> M. Conry: Sure. I have a pretty short question from Jeff in the Bakersfield Field

Office. Jeff is asking: are you saying that every oil well EA now has to have public comment in addition to the 30-day posting period? Jeff, unfortunately I'm not familiar with exactly what you mean by a 30-day posting period. I don't know if that's after a decision has been issued on the EA or not. What I can tell you is that you have to provide an opportunity for the public to be involved in that EA prior to your decision being made on it. You may choose to do that through a 30-day comment period. Once your EA is crafted but before your decision maker has made a decision you can put it out on the street. You may choose to do that just through a scoping notice or through holding a single public meeting. There are a variety of tools that you can use. The key is having the public involved prior to a decision being issued on that EA. So I'm sorry I can't speak to the 30-day posting period, but feel free to give me a call if that doesn't answer your question.

>> C. Humphrey: I'm sure somebody in the field is listening -- would you know, Chuck?

>> C. Otto: On a 30-day posting period I think that probably would suffice for public notification. It's going to depend once again on every individual situation and every office. Some offices -- some APDs may be more controversial than others and would need more public notification.