

NEPA Analysis Process: Purpose and Need

R. Hardt: The Purpose and Need is a problem or opportunity to which BLM is responding and what BLM hopes to accomplish by the action. Remember, it's the Purpose and Need for action, not for the document. So don't write that the purpose of the EA is to analyze the effects of the action.

The CEQ regulations talk about Purpose and Need as one thing. And you can present it that way, but we also think it can be helpful to treat it as two aspects which we consider the need to be the problem or opportunity, and the purpose to be the solution to the problem. However you construct it, it should be brief, unambiguous and as specific as possible.

We have lots of flexibility in how we construct the Purpose and Need statement. But we recommend that your Purpose and Need conform to the existing decisions, policies, regulations or law for most actions.

When we have an externally generated action, remember that the Purpose and Need is the Purpose and Need of BLM action.

C. Humphrey: Why is it that the Purpose and Need is the purpose and need for the BLM action and not the proponent's action? There's been a lot of confusion about that.

R. Hardt: Yeah, it's understandable, because the proponent is the one who is actually going to be doing something on the ground, but it's BLM that has to take some action that triggers NEPA.

Let's consider some typical examples. A right-of-way request. An application for permit to drill. Special recreation permit. In all these cases, an applicant wants to do something and BLM needs to give them a permit to allow them to do it.

In this case, though, the BLM is the one that needs to consider what is the range of alternatives that are available. It doesn't help BLM decision making to think about what alternatives are available to the applicant.

C. Humphrey: You know, this is really different from the way that other people have done, the BLMers at least, have done this in the past. It might difficult for some to understand. This might be a place where you want to pause the video and read the NEPA Handbook in this section and think about this one, because this is a tough one, tough concept.

M. Conry: This is definitely a common mistake within the Bureau, and I've noticed that particularly in third-party prepared NEPA documents our Purpose and Need is not always written properly. I think that framing up the Purpose and Need as the Bureau Purpose and Need is really important, and if you're working with a contractor

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or a proponent who may be preparing their own EA, we need to get that point across and do some coaching. There's a lot of room for improvement in doing this properly.

R. Hardt: I think in constructing the Purpose and Need we need to remember that the Purpose and Need is going to dictate the range of alternatives. Alternatives are not reasonable if they don't respond to the Purpose and Need. So if we construct the Purpose and Need wrong, it will lead us down the wrong road in developing alternatives.

As we think about the Purpose and Need, we need to remember that the broader that Purpose and Need, the broader the range of alternatives that we'll need to analyze. A good Purpose and Need can really help you control the scope of the analysis. It's helpful to think about the authorities that are constraining our decision space or the authorities that are providing an actual need for action. It may be good to actually describe those in your description of the need for action.

It can also be helpful to describe the BLM decision to be made. This can be good to just help focus your thinking on what it is BLM is actually going to be doing. Sometimes this is a bit redundant with the Purpose and Need for a relatively simple project, but sometimes it can help avoid us constructing the wrong purpose.

For example, let's take a situation in which an applicant comes to us for a right-of-way so they can provide access to their land where they wish to build a wind farm. Well, the BLM decision to be made here is whether or not to grant or deny the right-of-way request. It is not a decision whether or not to build or not build the wind farm. And so describing that BLM decision to be made can help guide your thinking to the right Purpose and Need for action.

M. Conry: Richard, because articulating the BLM decision to be made is so critical and important to this process, why aren't we requiring it to be in all EAs all the time?

R. Hardt: That's a good question. Remember that as we were writing the handbook, one of our guiding principles was that we weren't going to create any new requirements. There's nothing in the CEQ regulations or guidance that requires us to explicitly define the agency decision to be made as a part of the Purpose and Need. We think it's a very good practice in many cases, so we think it's something good for you to do. And it can help you as you develop the Purpose and Need as a tool for streamlining the overall NEPA process, keeping it focused on what BLM can do.

Another thing to think about in the streamlining is tiering. We need to look at the decisions we've already made. Tiering to a broader analysis can help us limit the

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scope of what we're looking at, can help us construct a Purpose and Need that has the right scope that doesn't get into things that are really outside our decision space.

For example, if we have a Resource Management Plan that determined that project areas available for oil and gas leasing with a no surface occupancy stipulation, the Purpose and Need for an APD should reflect this for a no surface occupancy stipulation, unless you're entering into an RMP amendment because that decision has already been made by the broader land use plan.

C. Humphrey: And fortunately, Purpose and Need is one of those topics that we have more information, if you're interested. We have a broadcast and we have an online course. If you would like information about them, go to the Resources tab. It's on the left side of your screen.

M. Conry: Now it's time to pick up your Participant Guide. One of the first items in your Participant Guide is a sample project initiation letter. We find this to be a very helpful tool to develop early on and share with an interdisciplinary team embarking on a NEPA process. This can set up the process and establish expectations. Generally, we like to write a project initiation letter after we have a Purpose and Need, even if it's in very draft form.

J. Pollet: Now, Meagan, the Project Initiation Letter, in my experience, is also a good way to highlight the milestones and then the members of the interdisciplinary team that will be involved in the NEPA analysis.

M. Conry: Absolutely. As I think you'll see in the sample, the Project Initiation Letter establishes some dates. It lines out the Purpose and Need. It identifies interdisciplinary team members, key milestones. Just sets up the expectations. This is really helpful, also, to communicate from the decision maker to the interdisciplinary team any specific expectations that he or she may have, resource concerns, et cetera.

R. Hardt: We'll do an exercise on Purpose and Need now. It's Exercise 1 in your Participant Guide.

We're going to go through these two Purpose and Need statements and describe what we think about them, and there's room in your Participant Guide to write down answers as we go.

The first example: The Purpose and Need for BLM action is to provide energy to the west coast. The first question is: Is it clear what the purpose is? Well, if the purpose is what we hope to accomplish by the action, I'd say it's clear... provide energy to the west coast.

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Is it clear what the need is? Well, if the need is a problem or opportunity, I can't see any expression of a problem or opportunity here. So, we don't really know what the need is from this statement.

Is it specific enough to guide development of a range of alternatives? Well, we'll talk about this more when we do an exercise in the range of alternatives section, but it perhaps is a bit broad, but we could develop alternatives that meet this purpose.

Is it unreasonably narrow? Does it rig the process so only the preferred alternative can be selected? I think it would be hard to argue that this is an unreasonably narrow Purpose and Need Statement. Seems very broad. There are a lot of ways we could accomplish this.

Let's look at a very different example. Example 2: The purpose for action is to provide access for a natural gas transmission pipeline from source fields in Pinedale, Wyoming, to Southern California in a manner that protects the natural resources of public lands and prevents unnecessary or undue degradation. The need for action is established by FLPMA direction to respond to the right-of-way request and to grant rights-of-ways to qualified individuals.

Is it clear what the purpose is? Well, the first sentence in this Purpose and Need Statement says the purpose for action is access for a natural gas transmission pipeline. That seems relatively clear.

Is it clear what the need is? Well, the second sentence goes on and articulates the need. Talks about what FLPMA requires of us. Got a right-of-way request. And we have a mandate to grant rights-of-ways to qualified individuals. That establishes some need for BLM action.

Is it specific enough to guide development of a range of alternatives? Yes, it tells us many of the things we're trying to accomplish here. It explains a little bit about what we need to do. I think we can develop alternatives that would respond to this.

Finally, is it unreasonably narrow? Does it rig the process so only the preferred alternative can be selected? Well, it is somewhat narrow is that it provides a lot of specific information, but there are many alternative ways that we could accomplish this Purpose and Need. There are different routes. There are different kinds of pipelines that we could talk about. We will get into this more when we do an exercise for range of alternatives.

C. Humphrey: Okay. Now it's your turn. On the next page there is space for you to do this on one of your NEPA documents. So grab one of your NEPA documents that you brought, and you'll go through the same process that Richard just went

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through. So you'll look and see -- first of all, see if you wrote the Purpose and Need as one concept or as two separate ideas. And then determine if it's clear what the purpose is, what the need is, if it's specific enough to guide your range of alternatives, if it's unreasonably narrow. In a lot of the EA documents that we've seen, the Purpose and Need is so narrow there's only one alternative would that fit it. So see if yours okay or if you need to broaden it out a little bit.

And then finally, this is one thing Richard didn't talk about, but how does it measure up to the NEPA Handbook guidance? Pull out your NEPA Handbook, see how it fits the guidance.

Then once you have that information, what you're going to do next is rewrite your Purpose and Need so that it is consistent with the handbook. Make sure that the purpose is clear, the need is clear, et cetera. And it doesn't matter whether your EA or EIS is complete or not. If it's complete, then it's a low-risk way of having some practice, and if it's not complete, it's a way to improve your NEPA document.

Then finally, we'd like you to talk over your revised Purpose and Need with your favorite colleague or NEPA coordinator.

All right. Good luck!