

# Hugo Neighborhood Association & Historical Society

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May 1, 2017 Letter/Email

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Orville Camp, Author  
*Forest Farmers Handbook: A Guide to Natural Selection Forest Management* (1984); *The Natural Selection Alternative Natural Selection Alternative for the Medford District BLM South Deer Landscape Management Project* (EA# OR110-05-10)  
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Subj: BLM's Responsibilities to Educate the Public And the Public's Responsibilities to Educate Itself on the Meaning of "Substantive Comments" – BLM National Environmental Policy Act (NEPA) Handbook H-1790-1: April 24, 2008.

Dear Mary, Orville, & Serena:

My April 5, 2017 letter to you was an introduction to NEPA, and a NEPA "Analysis of a Range of Reasonable Citizen Alternatives & Analysis of the Significant Impacts of Those Alternatives." More detail on reasonable alternatives and significant impacts will follow as appendices, like Appendix B – Substantive Comments, on potential issues identified in Appendix C.

1. Comments on analysis of "reasonable" BLM NEPA timber sale alternatives. Analyze all alternatives, including a citizen proposed *Natural Selection Alternative, Deer Creek Watershed Pilot Project*, for compliance with BLM legal "reasonable alternatives" requirements (NEPA references: Selected Council of Environmental Quality (CEQ) Regulations For Implementing The Procedural Provisions of NEPA; Selected Portions Of CEQ's 40 Questions; Selected Parts Of BLM NEPA Handbook: H-1790-1; USDI, Department Manual's (DM) NEPA guidance (516 DM 1-7); etc.).
2. Comments on "significant" impacts, or non-significant impacts, from those reasonable alternatives. Analyze all alternatives, including a citizen proposed *Natural Selection Alternative, Deer Creek Watershed Pilot Project*, for compliance with BLM legal "significant impacts" requirements (NEPA References: CEQ Regulations For Implementing NEPA; CEQ's 40 Questions; BLM NEPA Handbook; USDI NEPA DM; etc.).

This letter is about the BLM NEPA handbook H-1790-1 (April 24, 2008) and “Substantive Comments” from the public. Understanding H-1790-1 is critical, and it will take work. I recommend you request information meetings with appropriate BLM NEPA experts to help you understand the BLM NEPA handbook for your areas of interest.

*The purpose of this handbook is to provide instructions for complying with the Council on Environmental Quality’s (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508) and the Department of the Interior’s manual guidance on the National Environmental Policy Act of 1969 (516 DM 1-7). The objectives of this Handbook are: “... to ensure a logical and coherent record of NEPA compliance within the BLM...”.*

I comment again on the Hugo JSPSS Exploratory Committee’s *Aspiration Letter From Authors Of Study Design* as I feel its NEPA references could have been written by the Deer Creek Valley Natural Resources Conservation Association (DCVNRCA). Of special interest to me is the spirit and passion of both groups (Appendix A).

Rules – in the form of everything from traffic regulations and government directives to etiquette manuals and parliamentary procedures – structure almost every human interaction. We moderns cannot live without rules. But we also cannot live with them, at least not comfortably. We chafe at their complexity, their inflexibility, their inefficiency, their sheer verbosity. BLM’s responsibilities to educate the public and the public’s responsibilities to educate itself on the meaning of “Substantive Comments” on BLM EAs is pertinent to understanding the “rules” for the purpose of effectively communicating with BLM. The following information about “Substantive Comments” by the public is a quote from the BLM NEPA Handbook (i.e., Section 6.9 Public Involvement and Responding to Comments”).

**6.9.2.1 Substantive Comments** do one or more of the following (Appendix B):

- question, with reasonable basis, the accuracy of information in the EIS or EA.
- question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis.
- present new information relevant to the analysis.
- present reasonable alternatives other than those analyzed in the EIS or EA.
- cause changes or revisions in one or more of the alternatives.

The real education issue is the need for written methodologies for the above five “Substantive Comments” criteria (i.e., How does BLM actually decide if comments are substantive?).

Another educational issue besides “Substantive Comments” is the BLM NEPA Handbook’s “must” requirements for impact methodologies when conducting “Environmental Effects.” For example, per Section 6.8.1.2, Analyzing Effects, a “hard look” at the impacts of the action is required. Toward that end, BLM’s EAs and EISs **must** (Appendix C):

1. describe the analytical methodology sufficiently so that the reader can understand,
2. include a description of any limitations inherent in the methodology, and
3. recognize the opposing viewpoint(s) and explain the rationale if there is substantial dispute over models, methodology, or data.

I believe more understanding will occur with followups to my NEPA consultant letter communications (i.e., April 5, 2017, May 1, 2017, future NEPA letters, etc.). They could occur with telephone conference calls and/or meetings to discuss the NEPA topics one-on-one. I also believe your organization should consult with BLM NEPA experts (Appendix C), depending on your interest, on several NEPA topics/sections in the BLM NEPA Handbook (i.e., each bureau of the USDI has its own handbook – e.g., Bureau of Land Management, Bureau of Reclamation, National Park Service, U.S. Fish & Wildlife Service, U.S. Geological Survey, etc.). I also recommend that you request several hard-copies of BLM’s two NEPA policy documents, including its planning handbook.

1. U.S. BLM National Environmental Policy Act Handbook H-1790-1: April 24, 2008.
2. U.S. Department of the Interior’s (USDI) Department Manual (DM) on NEPA (516 DM 1-7).
3. U.S. BLM Land Use Planning Handbook (H-1601-1; BLM NEPA handbook, p. 13).

On October 15, 2008 the USDI amended its NEPA regulations in the *Federal Register* by adding a new part to codify its procedures for implementing NEPA, which are currently located in chapters 1–6 of Part 516 of the USDI DM. This rule contains policies and procedures for compliance with NEPA, Executive Order (E.O.) 11514, E.O. 13352, and the Council on Environmental Quality’s regulations (40 CFR Parts 1500–1508). I do not know if this is the latest update; consult with a BLM expert.

The “Web Guide links” imbedded in the BLM NEPA handbook are integral to understanding the BLM’s NEPA handbook policies and procedures. I believe non-functioning “Web Guide links” are a serious non-compliance issue toward the purpose of the BLM NEPA Handbook providing instructions for complying with the CEQ’s regulations in implementing the procedural provisions of NEPA.

Yesterday was a great sunny day in Hugo, where for the last few days I have been conducting hazard fuels reduction on the home lot.

Sincerely,

Mike :) 

Mike Walker, Chair  
Hugo JS&PSS Exploratory Committee  
Hugo Neighborhood Association & Historical Society

p.s. All my formal NEPA letter communications are considered public documents (i.e., they are not automatically copied to others, but they can be shared by you and me as we deem appropriate, e.g., BLM, other groups addressing NEPA, etc).

#### Appendices

- Appendix A. Be an Individual, Be Unique, Stand Out, Make Noise, That's the Power of Individuals
- Appendix B. Substantive Comments
- Appendix C. Preliminary Topics of Interest From BLM National Environmental Policy Act Handbook H-1790-1 (April 24, 2008)

## **Appendices**

- Appendix A. Be an Individual, Be Unique, Stand Out, Make Noise, That's the Power of Individuals
- Appendix B. Substantive Comments
- Appendix C. Preliminary Topics of Interest From BLM National Environmental Policy Act Handbook H-1790-1 (April 24, 2008)

## **Appendix A. Be an Individual, Be Unique, Stand Out, Make Noise, That's the Power of Individuals**

- Justice System Exploratory Committee, Hugo Neighborhood Association & Historical Society. September 1, 2015. *Appendix A. Be an Individual, Be Unique, Stand Out, Make Noise, That's the Power of Individuals*. From Justice System & Public Safety Services Study Design: 2015, Public Outreach. September 1, 2015 Letter/Email Outreach 10. Aspiration Letter From Authors Of Study Design. [http://www.hugoneighborhood.org/JSPSS\\_10\\_AspirationLetterFmAuthors\\_090115.pdf](http://www.hugoneighborhood.org/JSPSS_10_AspirationLetterFmAuthors_090115.pdf)

**Aspiration means hope and working together** toward life, liberty and the pursuit of happiness. It values the capacity, skills, knowledge, connections and potential in individuals and communities. However, focusing on strengths does not mean ignoring challenges, or spinning struggles into strengths. Working in collaboration is powerful - assisting citizens to do things for themselves. In this way, people can become co-producers, not passive consumers.

This alternative is self-management of problems/issues and long-term conditions by working together to achieve better outcomes. Citizens identify and build on their strengths and capacities as a means to help resolve problems and deliver their own solutions. This is a challenge from the traditional historical focus on deficiencies to a new focus on possibilities and solutions where citizens are the origins of strength and resilience. To be avoided is a traditional approach where the citizen is often no more than the repository of the problem or the holder of the issue. What are the possible personal individual decisions?

**Hope is practical.** As such it is in the gut not deflected by anything, that our lives are not mere accident, that we are more than brute chips fallen off the conveyor-belt of chance, that we have individual significance and destiny, that every small act of conscience and fidelity has meaning within the scheme of things. This is hope, as we feel it practically because we are unique and irreplaceable as are all fellow humans. The importance of maintaining “practical hope” in the face of current circumstances assists in the solution of people building locally unique, sustainable communities.

We aspire for individuals to gather, share ideas and work together to make alternative community building more mainstream, even while it retains its “non-conformist” JO CO edge, that allows for a much freer and a more open citizenry to prosper even in the midst of an increasingly governed world.

Practical hope is a system of governance kept in check by citizens who will be directly impacted by the actions and decisions of the government. For example, if laws are written so that the “average citizen” does not understand them, who better to say so than the average citizen who will be directly impacted by them, and who better than the common individual to be the accountant? The goal is a citizenry that is self-governing to every extent possible within the confines of the very real world in which we live today

**It can be done and I can do it.** We have to do more to talk about the better solutions that will help the American people have a better shot at the American dream. It's important that we show we're not just the opposition force, we're actually the alternative ideas. Opposing only gets you half the way there; blocking an idea's forward motion is not the same as making forward motion yourself. So yes, opposing is fine—but winning is the goal. And winning, requires the power of superior ideas and alternatives.

*Each one of you has something no one else has, or has ever had: your fingerprints, your brain, your heart. Be an individual. Be unique. Stand out. Make noise. Make someone notice. That's the power of individuals. Jon Bon Jovi*

## Appendix B. Substantive Comments

### 6.9 PUBLIC INVOLVEMENT AND RESPONDING TO COMMENTS

#### 6.9.1 Involving and Notifying the Public

#### 6.9.2 Comments

##### 6.9.2.1 Substantive Comments

##### 6.9.2.2 Comment Response

### 6.9 PUBLIC INVOLVEMENT AND RESPONDING TO COMMENTS (Selected quotes follow from pages 62 - 67)

Public involvement is an important part of the NEPA process. The level of public involvement varies with the different types of NEPA compliance and decision-making. Public involvement begins early in the NEPA process, with scoping, and **continues throughout the preparation of the analysis** (emphasis added) and the decision.

#### 6.9.1 Involving and Notifying the Public

The CEQ regulations require that agencies “**make diligent efforts to involve the public in preparing and implementing their NEPA procedures**” (emphasis added) (40 CFR 1506.6(a)). There are a wide variety of ways to engage the public in the NEPA process. For EA public involvement, see sections **8.2, Public Involvement; 8.3.3, Scoping and Issues; and 8.3.7, Tribes, Individuals, Organizations, or Agencies Consulted.**

Public meetings or hearings are required when there may be **substantial environmental controversy concerning the environmental effects of the proposed action** (emphasis added), a substantial interest in holding the meeting, or a request for a meeting by another agency with jurisdiction over the action (40 CFR 1506.6 (c)). . . . Consult 455 DM 1 for procedural requirements related to public hearings.

. . . In some cases, those affected by your proposed action may not be actively engaged in the NEPA process. In these cases, it is still important for you to reach out to those individuals, parties, or tribes, and we recommend using a variety of methods to help inform and engage those affected.

The CEQ regulations explicitly discusses agency responsibility towards interested and affected parties at 40 CFR 1506.6. The CEQ regulations **require that agencies shall** (emphasis added): (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures . . .

. . . (c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. **Criteria shall include** (emphasis added) whether there is: (i) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing. . . . (e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process. . . .

#### 6.9.2 Comments

. . . However, **all substantive comments received before reaching a decision must be considered to the extent feasible** (emphasis added) (40 CFR 1503.4). . . .

The requirements for BLM responses to comments differ between EAs and EISs (see section **8.2, *Public Involvement***, and section **9.6.1, *Comments Received Following Issue of the Final EIS***). When an EA and unsigned FONSI are made available for public comment, **we recommend that you respond to all substantive and timely comments** (emphasis added). You may respond to substantive, timely comments in the EA or in the decision record. If a substantive and timely comment does not lead to changes in the EA or decision, you may reply directly to the commenter, and we recommend that you document the reply in either the EA or the decision record (see section **8.5.1, *Documenting the Decision***). . . . You are not required to respond to comments that are not substantive or comments that are received after the close of the comment period, but you may choose to reply (516 DM 4.19(A) and (B)) (see section **6.9.2.2, *Comment Response***). . . .

**6.9.2.1 Substantive Comments** Substantive comments do one or more of the following:

- question, with reasonable basis, the accuracy of information in the EIS or EA.
- question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis.
- present new information relevant to the analysis.
- present reasonable alternatives other than those analyzed in the EIS or EA.
- cause changes or revisions in one or more of the alternatives.

Comments that are not considered substantive include the following.

- comments in favor of or against the proposed action or alternatives without reasoning that meet the criteria listed above (such as “we disagree with Alternative Two and believe the BLM should select Alternative Three”).
- comments that only agree or disagree with BLM policy or resource decisions without justification or supporting data that meet the criteria listed above (such as “more grazing should be permitted”).
- comments that don’t pertain to the project area or the project (such as “the government should eliminate all dams,” when the project is about a grazing permit).
- comments that take the form of vague, open-ended questions.

Examples of substantive comments can be found in the Web Guide.

**6.9.2.2 Comment Response** The CEQ regulations at 40 CFR 1503.4 recognize several options for responding to substantive comments, including:

- modifying one or more of the alternatives as requested.
- developing and evaluating suggested alternatives.
- supplementing, improving, or modifying the analysis.
- making factual corrections.
- explaining why the comments do not warrant further agency response, citing cases, authorities, or reasons to support the BLM’s position.

*Preparing to Respond to Comments* . . . Commenters may wish to know how the BLM responded to their comments; having a well-organized means of determining this will facilitate the process.

## **Appendix C. Preliminary Topics of Interest From BLM National Environmental Policy Act Handbook H-1790-1 (April 24, 2008)**

The handbook provides supplemental information, guidance, and examples to assure consistency with the Department of the Interior's Departmental Manual (DOI DM) and the Council on Environmental Quality (CEQ) NEPA regulations. The BLM NEPA Handbook (H-1790-1) was last updated October 25, 1988 and revisions are necessary to update the information and to reflect current NEPA guidance. The public can review the revised edition of the NEPA Handbook on the BLM Web site at <http://www.blm.gov>, on the left click on Information and then click on NEPA.

**Note that the Web Guide links will be functional at a later date** (emphasis added). The handbook will be mailed to those who indicate that they want a hard copy or compact disk. The handbook is based upon current regulation, policy, and procedures.

The handbook revisions focus on helping the BLM improve analysis to support decision making. The revisions to the NEPA Handbook are also designed to make the NEPA process more efficient, avoiding redundant or unnecessary documentation. The revisions include updates to clarify definitions and incorporate new Departmental requirements.

The following preliminary topics of interest are quotes from the “Table of Contents” page of the 2008 BLM NEPA Handbook (H-1790-1). Section 6.8.1.2 “Analyzing Effects” is the only example of including text. This was done because understanding the “must” requirements of the BLM NEPA Handbook is critical (must in this handbook means “shall”).

Methodology: Your NEPA document **must describe** the analytical methodology sufficiently so that the reader can understand how the analysis was conducted and why the particular methodology was used (40 CFR 1502.24). This explanation **must include** a description of any limitations inherent in the methodology (emphasis added). If there is substantial dispute over models, methodology, or data, **you must recognize** the opposing viewpoint(s) **and explain the rationale for your choice of analysis**.

### **HANDBOOK USER'S GUIDE**

#### **CHAPTER 1—NEPA BASICS**

##### **1.1 INTRODUCTION TO THE NEPA**

##### **1.2 DEPARTMENTAL GUIDANCE AND THIS BLM HANDBOOK**

##### **1.3 DOCUMENTS USED TO MEET NEPA REQUIREMENTS**

##### **1.4 THE NEPA APPROACH**

#### **CHAPTER 6—NEPA ANALYSIS**

##### **6.1 OUTLINE OF ANALYTICAL STEPS**

##### **6.2 PURPOSE AND NEED**

*6.2.1 The Role of the Purpose and Need Statement*

*6.2.2 The Decision to be Made*

##### **6.3 SCOPING**

*6.3.1 Internal Scoping*

*6.3.2 External Scoping*

##### **6.4 ISSUES**

*6.4.1 Identifying Issues for Analysis*

*6.4.2 Issues Not Analyzed*

##### **6.5 PROPOSED ACTION**

*6.5.1 Description of the Proposed Action*

*6.5.1.1 Design Features of the Proposed Action*



6.5.2 *Defining the Scope of Analysis of the Proposed Action*

6.5.2.1 Connected Actions

6.5.2.2 Cumulative Actions

6.5.2.3 Similar Actions

## 6.6 ALTERNATIVES DEVELOPMENT

6.6.1 *Reasonable Alternatives*

6.6.1.1 Developing Alternatives Under The Healthy Forests Restoration Act

6.6.2 *No Action Alternatives*

6.6.3 *Alternatives Considered but Eliminated From Detailed Analysis*

## 6.8 ENVIRONMENTAL EFFECTS

6.8.1 *Effects Analysis*

6.8.1.1 Defining Environmental Effects

**6.8.1.2 Analyzing Effects** The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action. The level of detail must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (40 CFR 1502.1). See the Web Guide for recent examples of how the Interior Board of Land Appeals (IBLA) has dealt with the concept of “hard look.” A “**hard look**” is a reasoned analysis containing quantitative or detailed qualitative information.

Use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed.

Describe the methodology and analytical assumptions for the effects analysis as explained below:

Methodology: Your NEPA document **must describe the analytical methodology sufficiently so that the reader can understand how the analysis was conducted and why the particular methodology was used (40 CFR 1502.24)** (emphasis added). This explanation **must include a description of any limitations inherent in the methodology** (emphasis added). If there is substantial dispute over models, methodology, or data, **you must recognize the opposing viewpoint(s) and explain the rationale for your choice of analysis** (emphasis added). You may place discussions of methodology in the text or in the appendix of the document. To the extent possible, we recommend that the analysis of impacts be quantified.

Assumptions: We recommend that your NEPA document state the analytical assumptions, including the geographic and temporal scope of the analysis (which may vary by issue), the baseline for analysis, as well as the reasonably foreseeable future actions (see section **6.8.3, Cumulative Effects**). You must also explain any assumptions made when information critical to the analysis was incomplete or unavailable (40 CFR 1502.22). See section **6.7.2, Use of Relevant Data**, for more discussion of incomplete or unavailable information.

Analytical assumptions may include any reasonably foreseeable development (RFD) scenarios for resources, such as RFDs for oil and gas development. A reasonably foreseeable development scenario is a baseline projection for activity for a defined area and period of time, and though commonly used in minerals development, these scenarios may be used for other resources as well. Examples of reasonably foreseeable development scenarios can be found in the Web Guide.

Clarity of expression, logical thought processes, and rational explanations are more important than length or format in the discussion of impacts. Following these guidelines will help the decision-maker and the public understand your analysis.

- Use objective, professional language without being overly technical.
- Avoid subjective terms such as "good," "bad," "positive," and "negative." The term "significant" has a very specific meaning in the NEPA context (see section 7.3, *Significance*). While it is a common descriptor, do not use it in NEPA documents unless it is intended to take on the NEPA meaning.
- Avoid the use of acronyms.

#### **6.8.2 Direct and Indirect Effects**

#### **6.8.3 Cumulative Effects**

6.8.3.1 Cumulative Effects Issues

6.8.3.2 Geographic Scope of the Cumulative Effects Analysis

6.8.3.3 Timeframe of the Cumulative Effects Analysis

**6.8.3.4 Past, Present, and Reasonably Foreseeable Actions**

**6.8.3.5 Analyzing the Cumulative Effects**

6.8.4 *Mitigation and Residual Effects*

### **6.9 PUBLIC INVOLVEMENT AND RESPONDING TO COMMENTS**

6.9.1 *Involving and Notifying the Public*

#### **6.9.2 Comments**

**6.9.2.1 Substantive Comments**

6.9.2.2 Comment Response

## **CHAPTER 7 — DETERMINING WHETHER AN EA OR EIS IS APPROPRIATE**

### **7.1 ACTIONS REQUIRING AN EA**

### **7.2 ACTIONS REQUIRING AN EIS**

### **7.3 SIGNIFICANCE**

## **CHAPTER 8—PREPARING AN ENVIRONMENTAL ASSESSMENT**

### **8.1 PREPARING TO WRITE AN ENVIRONMENTAL ASSESSMENT (EA)**

### **8.2 PUBLIC INVOLVEMENT**

### **8.3 EA FORMAT**

8.3.1 *Introduction*

**8.3.2 Purpose and Need for Action and Decision to be Made**

8.3.3 *Scoping and Issues*

**8.3.4 Proposed Action and Alternatives**

8.3.4.1 Description of the Proposed Action

**8.3.4.2 Alternatives in an EA**

**8.3.4.2.1 Alternatives Considered but Eliminated from Detailed Analysis**

8.3.4.3 Conformance

8.3.5 *Affected Environment*

8.3.6 *Environmental Effect*

8.3.7 *Tribes, Individuals, Organizations, or Agencies Consulted*

8.3.8 *List of Preparers*

### **8.4 DETERMINATION OF SIGNIFICANCE**

**8.4.1 Significant Impacts -Transitioning from an EA to an EIS**

8.4.2 *The Finding of No Significant Impact (FONSI)*

### **8.5 THE DECISION RECORD**

8.5.1 *Documenting the Decision*

8.5.2 *Terminating the EA Process*

### **8.6 IMPLEMENTATION**