

## Citizen Participation in EISs

Citizens are the only 'experts' qualified to make value judgements on whether the benefits of a proposed activity are worth the cost

Most projects appear benign on paper; only later do they justify citizen apprehension  
Courts and SEPA's have steadily increased opportunities and rights of citizens to participate in EIS processes

People want more say in their lives; NEPA and SEPA's give citizens power if they participate in the process

Properly prepared and monitored EISs help citizens understand how projects will affect their environment before approval and action

EISs ease citizen involvement because all information in one place

Built-in mechanisms for written/oral comments in DEIS stage

Citizens who want to influence community development and protect the environment have three major tasks

Learn about and obtain relevant information about proposed activities

Analyze information available/make a value judgement about project

Make views known to decision-makers

How do citizens find out about projects?

Bulldozers arrive, conversations, news stories

Participation on local boards and commissions

On mailing lists of key organizations/agencies

Join environmental activist groups

The earlier citizens find out about projects and get involved, the more influence they can have over the process

Many critical decisions are made long before the DEIS is prepared

Scoping process/hearing determines key factors to be examined in the DEIS

Citizen values/ideas critical

Bad projects abandoned early; proponent realizes the environmental impacts won't pass public review (e.g., Rhodes Pt. Marina)

NEPA, SEPA's do not guarantee proper EIS preparation

Citizens serve valuable watchdog role to overcome inertia, special interests, political pressure

Citizens can act on two levels:

Work directly with agency staff via letters, phone calls, meetings to influence the process and to assure compliance with spirit of laws

Use EISs as legal and political tools to persuade politicians and judges

Citizen actions most effective at critical points in the process

When must an EIS be done?

Knowing what types of projects required EISs in the past will help determine the needs of current projects

Typically, EIS needed for:

Transportation (highways, airports)

Water resources (dams, wetlands, marinas)

Natural resource development (oil drilling, mining)

Urban/suburban development (housing tracts, malls)

Regulatory actions (e.g., ICC scrap freight rates vs. effects on recycling;

forced by citizen activists)

One key is to establish federal or state involvement early

E.g., new SF Bay bridge needed a Coast Guard permit that established NEPA involvement

Citizens forced DEIS that showed effects on bay ecology, BART and neighborhood; legislature reversed go-ahead decision

E.g., chemical company needed USACE permit to build docks on Savannah R., GA, to load ships for ocean dumping of wastes

Citizens forced EIS that ----> a state of the art incinerator

If the level of environmental harm is uncertain, the level of public interest often determines whether an EIS will be prepared ("public controversy" provision of laws)

Always be sure whole programs are considered, not small pieces that have little effect individually, but may have significant cumulative impacts (e.g., boat launches/marinas on Lake Ontario)

To determine if an EIS is needed, citizens need detailed project descriptions, CEQ or state guidelines, and agency guidelines

Compare the project description with guidelines and with past projects of the agency or proponent where EIS's were required

Find out about past EISs from: 102 Monitor, U.S. Gov't Printing Office, and EIA: Key to EISs, Information Research Press, DC

Ask these questions:

Is there a proposed project?

Is it an action that falls under federal or state guidelines?

Is the action "major"?

Will the project significantly affect the quality of the environment?

To what extent will the action cause adverse effects in addition to those created by existing uses of the environment?

Will added adverse effects be the straws that break environment's back?

If the answers to 1-4 are yes, then an EIS should be prepared

Call and write the agency to express your opinion/determine what is being done

Begin finding allies

Obtain copies of and begin learning the agency's regulations/procedures

Participate in the agency "scoping" process

Objecting to a Negative Declaration

An uphill battle; supervisors do not lightly overturn decisions of staff who are more familiar with issues

Citizens need new information or to create political pressure (hardball)

Obtain copies of the Negative Declaration and EIA upon which it was based

Determine why the agency concluded impacts are not significant

Citizens need new facts or to demonstrate illogic or carelessness

Determine which project impacts are of greatest concern

Decide what additional information is needed

Collect data from agencies, libraries, experts, site visits, etc.: Dig!

If the agency drew unreasonable conclusions, discuss this in person with the responsible agency official followed by a letter summarizing your position

Gives agency a chance to reverse the decision

Be sure to have an airtight case to present with specific reasons why an EIS

should be prepared

If there is no reversal and you are still not satisfied with agency reasons, try:

Writing a short letter stating why significant impacts will occur or where agency failed to comply with its own procedures

As appropriate, send the letter to CEQ, EPA, DEC, newspapers, TV and radio (ask for intervention/editorials)

Follow letters with phone calls; try to arrange personal visits, interviews

Give presentations to local environmental and citizen groups and contact local, state and federal elected officials

Emphasize the number of people supporting you

Last resort is a law suit (expensive)

Try to get large environmental groups to do this for you

All steps also apply to later stages of the process, but reversals become harder to achieve

Agencies can be masters of delay, confusion and frustration

Steps to take during EIS preparation (many things citizens should do now)

Takes months to years to prepare a DEIS

Early in EIS history, DEIS's were not ready in time to accompany technical proposals through review

CEQ and courts have ruled that no review or decision on technical specifications can take place until the DEIS is completed

Proponents should begin environmental analysis immediately after project conception and submit an EIA with permit applications

Join/create a group to share review, comment, follow-up, and thinking tasks

Make personal contact with agency officials who will prepare/oversee EIS

Establish good relations early because the EIS may polarize later

Obtain agency rules/regulations to determine how they will approach EIS

Contact and involve other interested agencies and parties to secure more thorough review

Get on the agency mailing lists

Get technical help

Citizens can handle community effects, aesthetics and values, but need help on engineering, models, statistics, environmental biology

Consult National Wildlife Federation Conservation Directory

Find local participants from universities, environmental groups, etc.

Develop precise, focused questions to ask experts at universities, research firms, planning boards, etc.

Expert time is valuable and hard to get, and citizens usually ask for free help (e.g., Riga Landfill)

Try to influence the agency approach to the EIS

Do your own EIA/make suggestions during scoping/meetings with agency staff

Join agency advisory committees and attend public meetings

Excellent way to increase public awareness

Learn agency procedures and regulations, formal and informal

Know how/when to deliver citizen opinions with maximum impact

Understand appeal procedures and the roles of agency consultants

Reviewing the DEIS: most people get involved at this late stage in the process

Each agency has its own procedures that citizens must know/follow

The agency must hold a public hearing that is advertised in newspapers

Usually place review copies of DEIS in local libraries, Town Halls, etc.

The purposes of the DEIS review are to:

Determine if the document is accurate and complete

Find out what the public thinks about the project

DEIS review steps:

DEISs often long, poorly organized/written, with much data and little analysis

Do not read DEIS as a book

Start with overview of project description/unavoidable adverse impacts

Follow each impact one at a time through the several sections where it will be addressed (impacts, unavoidable, alternatives, resource commitments, etc.)

Citizens may want to make a site visit

Different people in the citizens' group should focus on separate issues

Divides work load and provides multidisciplinary review

Key questions when reading a DEIS:

What are the significant impacts?

Can they be reduced/avoided by mitigations/alternatives

Are the analyses clear and convincing?

Analysis of each major impact should include:

Background and description: can you understand the impacts in the context of the project and environment (biota, communities, etc.)

Probable impacts: are assessments complete and detailed enough to determine what is likely to happen as a result of the project

E.g., power plant on a lake raises temperature and effects stratification, physiology, ecology

Methodology: how did the agency determine likely impacts

Were methods sound (literature, sampling, conjecture?)

Significance of impacts: most EISs deficient here

Are impacts put into perspective (e.g., run-off is expected to increase by 4 t/ha/year vs. current run-off of 4 or 400)?

Are there major omissions?

Often occur in the alternatives and secondary impacts areas

Frequently the null alternative is ignored as are obvious, common sense alternatives (e.g., building marinas directly on lake shores vs. sensitive wetlands)

Secondary ecological interactions hard to predict; citizens need independent expert help

Cost-benefit analyses often ignore indirect or external costs like damage to the environment, increased waste disposal costs, etc.

Local knowledge often important

E.g., power line corridor in southern tier vs. golden nematode agricultural pest and construction equipment moving between infested and uninfested regions

Local contacts with technical experts useful

E.g., highway bridge in upstate NY

Concerned citizen had friend in local EPA office who reviewed DEIS and provided other contacts

Engineer discovered design errors, limnologist provided info on lake effects, and city planner provided info on residential effects

Use two guidelines before requesting more information from the agency:

Is the issue really important relative to the project?

Does the information exist/can it be obtained?

After discussion with experts, back-up requests with need, facts, regulations

Formulating a position on a project

Using the DEIS as a basis, are the benefits worth the costs?

This is a value judgement

Citizens are often asked to balance 'hard' benefits (jobs, power, etc.) vs.

'soft' costs (clean water, aesthetics)

Are there acceptable alternatives/mitigations?

Commenting to the agency

Remember that agency staff are harried professionals usually working on several projects simultaneously

They will not reconsider or reverse decisions based on citizen whims, nor should they

If you want careful thought for your ideas, you must distill them to their logical essence by your own careful thought

Concise, clear, intelligent questions will get a similar response

Poorly framed comments are disposed of quickly

Don't send a shopping list; pick the major issues and a few minor ones

Send compliments where they are due

State whether you or your group (power in numbers) is in favor or in opposition to the project overall and why

The agency is required by law to respond to all written comments on a DEIS

Only effective, constructive criticisms will influence the Final EIS

Review of FEIS and Decision

There is no formal role for citizen participation at this stage

Must request a copy of the FEIS and rely on good relations with agency

FEIS should contain no substantial, new impacts

Otherwise a revised DEIS should be circulated

FEIS should include responses to all comments on DEIS

Usually the lead agency consults with the major players to reach compromises, then releases the FEIS 3-20 months after DEIS review for a 30 day comment period before the project begins

Two objectives in FEIS review:

Were your comments and those of other citizens adequately addressed?

Did other groups raise issues similar to yours (allies for law suit, etc.)?

If the FEIS is OK, you have done your job

Check back occasionally with the agency staff you know to be sure things are proceeding as planned in the EIS

E.g., double-hulled tankers, Valdez oil spill

If you still believe the FEIS is inadequate, you have 30 days to get an explanation from the agency and line up political support to exert pressure

Remember, a good FEIS may not agree with your views; it is a response to all views and a best professional guess at project impacts

Take stock: the law does not require the most beneficial alternative for the environment, only that all consequences are understood and considered in the process

Build your case: identify procedural (unusual this late in the game) and substantive (insufficient analysis, conflict of interest, etc.) errors

Identify who in the agency can overturn the FEIS and go over his/her head with letters, politicians, money, lobbying, law suits, etc.

Expensive, dangerous, rough game

If the letter and spirit of NEPA/SEPA has been fulfilled, should a project be stopped?

### Summary

NEPA/SEPA encourage unprecedented levels of citizen involvement in decision-making  
EIS process guarantees citizen access to decision-making; it does not guarantee environmentally sound decisions

The degree of citizen interest, involvement and energy in the process will determine the ultimate success of this social experiment

Teaching students environmental science by using an EIS process teaches them valuable real-world, eco-citizenship skills