

# Collecting NEPA Success Stories to Celebrate 40 Years of Transparency and Open Government

To celebrate the National Environmental Policy Act's (NEPA) fortieth birthday, we are asking for your help in identifying NEPA success stories where the public's ability to use the tools provided by NEPA has made a positive difference in the outcome of government decisions. These success stories will demonstrate how using NEPA analyses and documents has helped communities participate in agency decisions, led to transparency of government decisions, increased collaboration among stakeholders, and ultimately led to better agency decisions. Supporting the compilation of these stories are the following organizations: Environmental Law Institute, Grand Canyon Trust, The Lands Council, and The Partnership Project. The stories and an essay on lessons from NEPA successes will be published in a concise booklet and web document, *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government*.

NEPA success stories for the report could include, but are not limited to, instances where the use of NEPA:

- included a robust scoping period that led to redefining or reconsideration of a project with less adverse impacts on the environment when the decision was made;
- identified and led to studies and/or selection of alternatives that were not originally proposed and which minimized possible damage to the environment, wildlife, human health and/or the quality of life of our communities;
- led to impacts being considered that were not initially examined;
- increased multi-stakeholder collaboration and how that changed the outcome;
- maintained and strengthened a community's voice on federal projects and resulted in a better decision; and/or
- helped an agency identify or recognize facts or outcomes not provided in the agency's initial or draft analyses and documents.

## NEPA Success Story Submission Details

Please tell your NEPA success story in approximately 500 -1,000 words (see two examples at the end of this letter). Include in the beginning of the description the positive result that occurred because of NEPA. If it's relevant, please include the following information:

- Describe the federal action that was proposed, including location of project, year the project was proposed, and the lead agency.
- Identify which components of the NEPA process were important in achieving the good result and who relied on these components.
- Explain how involvement of nonfederal actors and /or cooperating agencies changed either what the agency considered, or the ultimate outcome of the process.
- For federal actions that have been implemented, explain whether the NEPA process provided reasonably accurate information and led to environmentally preferable results.

- Summarize why you would consider this a NEPA success story (e.g., environmental benefits, stakeholder long-term involvement) and what you think are the best lessons to be taken away from this story.
- Provide a URL or title of the final NEPA document, project website, and other material by which a reader could access more information.
- Please provide a point of contact for anyone wishing further information regarding this NEPA success story.

Additional guidance on information to include in your success story and several examples are below.

If you have questions or would like to discuss a potential NEPA success story, please feel free to contact any of us (contact information provided below). For your story to be considered for publication, please send your completed story by **August 15, 2009** to Stephanie Young, NEPA Campaign Director, at [Stephanie@saveourenvironment.org](mailto:Stephanie@saveourenvironment.org). In addition, you are encouraged to provide photos or graphs that complement your story. Lastly, we reserve the right to edit submitted NEPA success stories as necessary, including for clarity, conciseness, style, and length.

We hope to release *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government* in **January 2010**.

Thank you,

Anne Martin  
Conservation Programs Coordinator  
The Lands Council  
[amartin@landscouncil.org](mailto:amartin@landscouncil.org)

Jim McElfish  
Senior Attorney  
Environmental Law Institute  
[mcelfish@eli.org](mailto:mcelfish@eli.org)

Mary O'Brien  
Utah Forest Program Manager  
Grand Canyon Trust  
[maryobrien10@gmail.com](mailto:maryobrien10@gmail.com)

Stephanie Young  
NEPA Campaign Director  
The Partnership Project  
[Stephanie@saveourenvironment.org](mailto:Stephanie@saveourenvironment.org)

## Additional Information

Please use any of the following elements or factors below that help you tell your story. As you consider these elements or factors, please keep in mind that NEPA addresses the “human environment” which is to be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment; and that the effects of proposed actions include ecological, aesthetic, historic, cultural, economic, social, or health effects, whether direct, indirect, or cumulative.

Scoping - If scoping contributed to the environmental outcome you’re writing about, please describe the scoping process used and how the scoping process was important. For example, did scoping input from the public or coordinating agencies affect what issues were addressed in the NEPA analysis? Did it expand the alternatives that were considered?

Environmental Impact Statement - If an agency prepared an EIS, did non-federal participants help bring to light information that the lead and/or cooperating agencies initially overlooked, including but not limited to additional concerns, alternatives, or solutions? How did this change the final outcome of how the project was implemented and why was this taken to be a positive change?

Environmental Assessment - If an agency undertook the preparation of an EA, did public or agency participation affect how or whether a Finding of No Significant Impact (FONSI) was reached? What environmental benefits resulted from the preparation of the EA or the decision to either not proceed or to prepare an EIS?

Categorical Exclusion - How did the public and/or other interested parties otherwise affect the CE process or the decision and how it was to be implemented? Did input from stakeholders and/or cooperating agencies lead to a decision that the proposed action or the use of the CE was not appropriate?

Alternatives - Did the public, cooperating agencies, and/or other interested parties develop or contribute to development of alternatives to a proposal? Did the agency adopt, in its entirety or in part, significant portions of any of these alternatives, and did that lead to an environmentally preferable outcome?

Public Information and Input - Did the agency use innovative or otherwise effective methods of providing information and/or accepting input? How did that contribute to a decision that better informed the public and/or the agency about options or environmental impacts or benefits?

Science - If scientific information played a significant role, how did it enter into the process, and how did it contribute to an informed and environmentally sound decision?

Collaboration - During the NEPA process, did a coalition of diverse stakeholders collaborate to work with a federal agency? If yes, did this coalition continue to work together on implementation of the decision or on related issues?

Interagency Coordination - Did agency sharing of information and integration of planning responsibilities with other agencies contribute to expansion of alternatives considered, an environmentally improved decision, or other environmental benefit? Did a high level of interagency

coordination help avoid or resolve conflicts, reduce duplication of effort, or improve an environmental permitting process?

Conflict Resolution – Were facilitation or mediation or Alternative Dispute Resolution used? If so, how did that affect the outcome and why was that considered a better outcome?

Remedies – Were there administrative, judicial, or other alternative remedies that were utilized in improving the final decision? For example, were administrative appeals, litigation, or mediation used in helping reach a decision that brought increased environmental benefits?

## Examples of NEPA Success Stories That Will be Considered for Publication

### **Protecting Drinking Water from Uranium Mill Wastes**

The Moab Uranium Millsite site is located on the west bank of the Colorado River near Moab, Utah and adjacent to Arches National Park. The site covers approximately 400 acres and contains almost 16 millions tons of uranium mill tailings, radioactive residue from the processing of uranium. The uranium mill tailings are piled within the floodplain of the Colorado River, which serves as a primary drinking water supply for Phoenix, Las Vegas, San Diego and Los Angeles, raising concerns of contamination of drinking water if the tailings were not removed.

In 1986, the Nuclear Regulatory Commission (NRC) issued a one-alternative Environmental Assessment (EA) approving mill-owner Atlas Minerals' plan to cap the tailings in place on the riverbank. The EA only contained one alternative because the NRC asserted that they cannot evaluate alternatives not proposed by their licensees. However, geometric considerations at the site required steeper sideslopes than allowed by regulation, so in 1993 NRC issued a Finding of No Significant Impact (FONSI) on Atlas' plans to reconfigure the tailings pile. The local county government wrote a letter of protest stating that the cap-in-place option met none of the long term objectives for tailings disposal and did not include an alternative of moving the wastes to a safer site away from the river. Convinced by the letter, Senator Orrin Hatch intervened, telling NRC to prepare a full Environmental Impact Statement (EIS) on disposal options.

Still constrained by their interpretation of NEPA's applicability to the NRC to look only at alternatives proposed by its licensee, NRC again prepared a one-alternative EIS, noting that relocating the tailings would be preferable in every respect except it would cost more.

Ground and surface water contamination were not addressed because the agency stated, "There is no contamination." This final EIS claim was soon contradicted by the Utah Division of Drinking Water which measured high levels of contaminants in the Colorado River in direct association with the tailings pile. Oak Ridge National Lab next confirmed extreme contamination of groundwater at the site, and the US Geological Service (USGS) demonstrated that near shore waters in the river were lethal to fish. This compelled the US Fish and Wildlife Service to issue a Biological Opinion after issuance of the final EIS, stating that the plan to cap the tailings in place would jeopardize the endangered Colorado pikeminnow. Atlas, which had never planned any groundwater remediation, filed for bankruptcy, leaving behind a reclamation bond worth just \$4.25 million.

The Atlas bankruptcy left the site in a legal void since NRC has no capability to do remediation on its own. That job had been assigned by law to DOE for the various orphaned uranium millsites, which Atlas had now become. Legislative intervention was required.

In 2001, Congress assigned responsibility for cleanup at Moab to the Department of Energy (DOE), which had remediation capability. DOE, the lead agency, held public scoping meetings for the EIS in January 2003 and issued a draft EIS in November 2004 for public comment. The draft EIS explored whether the tailings should be moved or stored in place, but did not include a preferred alternative. On April 6, 2005 DOE announced that the final EIS would recommend moving the 12 million tons of radioactive waste by train to the Crescent Junction site thirty miles north of Colorado River. The final EIS was published in July 2005, and the Record of Decision was issued in September 2005.

Public involvement included comments from a bipartisan coalition of western governors from Arizona, California, New Mexico, Nevada and Utah, and a bipartisan western congressional coalition, which included members of the House Resources Committee. The EPA filed comments stating that storing the waste would be environmentally unacceptable and should be dropped from consideration in the final EIS. The National Park Service and US Fish and Wildlife Service also participated in the NEPA process, asking for the waste to be moved to a safer place. As well, many individuals and conservation groups filed comments.

Because of NEPA's requirement to review reasonable alternatives and consider environmental consequences of the alternatives, citizens and agencies could encourage both consideration of mine tailings removal and the comparative environmental and public health risks, as well as costs, of removing the tailings versus capping them in place. The result was DOE's decision to engage in active ground water remediation and off-site disposal of the tailings pile using predominantly rail transportation.

The final EIS and ROD can be found here: [http://www.gjem.energy.gov/moab/eis/eis\\_info.htm](http://www.gjem.energy.gov/moab/eis/eis_info.htm)

For more information, please contact Mary O'Brien, Utah Forest Program Manager, Grand Canyon Trust, at (435) 259-6205 or [maryobrien10@gmail.com](mailto:maryobrien10@gmail.com)

## Closing Motorized Routes and Roads on a National Forest

Southern Utah is one of several areas in the nation in which off-road vehicle (ORV) motorized use of public lands is a particularly contentious issue. As the US Forest Service moves away from its former stance of allowing ORVs to drive cross-country in the forests, the question arises of what to do with routes that were created by ORV users during the years when cross-country driving was allowed, but which the Forest Service had not planned. These so-called “unauthorized” routes plus “authorized” ORV routes, dirt bike routes, roads, and non-motorized trails have proliferated along with the growth of the off-road motorized industry.

In 2004, the 1.9 million acre Dixie National Forest (Dixie NF) in south central and southwestern Utah began asking the public and cooperating agencies (e.g., County commissions, State of Utah) to review the Forest’s inventory of roads and routes, and to provide feedback on the proposed evaluation process. In December, 2006, the Forest began its formal NEPA process with a scoping period; continued it with a Draft EIS in May 2008; and issued the Final EIS in April 2009.

The Record of Decision closes 48% of the current 5,200 miles of forest roads and routes, leaving 2,700 miles of motorized system routes open for public use. Seventy-three percent of routes that had been pioneered by users (“unauthorized” routes) are being closed; as well as 27% of roads and routes that had been classified as forest system routes.

Several features utilized the potential of NEPA for a decision that is being broadly accepted by those who are concerned about ecological impacts of ORV users as well as those who desire increased motorized routes on the forests:

- A **pre-scoping public process** that sought public and cooperating agency input, and resulted in addition of two alternatives to the three initially planned for consideration.
- **Interactive website maps** allowing a computer user to click on any route on the Forest and obtain a detailed description of the conditions of that route, for instance, number of times it crosses a stream; its proximity to sensitive wildlife; its potential for erosion; and current users.
- **Numerous sessions** with members of the public, government representatives, commercial and inholder users, and others at which maps were laid out and staff were present to have one-to-one conversations and take suggestions about retaining or closing specific routes.
- **Close analysis of options for inventoried roadless areas.**
- **A request from the Forest Supervisor to extend consideration of scoping comments** by a year before issuing a Draft EIS in order to have in-depth conversations with commenters who had offered substantive proposals, including comments about individual routes.
- Pre-Record of Decision indications to a diversity of stakeholders that **particular suggestions were being taken.**
- Acceptance of a citizen proposal to provide **post-decision implementation oversight** via a standing multi-stakeholder Task Force.
- **Candor at all public meetings** about the plans to close numerous routes, protect wildlife and sensitive and roadless areas, and to close additional routes post-decision if abuse occurs on open routes.

Although travel planning is occurring throughout the national forest system, the publication of a broadly-accepted Final EIS and Record of Decision to close routes and roads in a state known for its

vocal social divisions regarding public lands off-road vehicle use is a testament to an exemplary NEPA process.

The final EIS and ROD can be found here: <http://www.fs.fed.us/r4/dixie/projects/MTP/>.

For more information, please contact Mary O'Brien, Utah Forest Program Manager, Grand Canyon Trust, at (435) 259-6205 or [maryobrien10@gmail.com](mailto:maryobrien10@gmail.com)