

Environment in the Eighties

by James A. Roberts, PhD

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Dr. Roberts has managed, directed, or coordinated many environmental projects from EIS's for Federal projects (including Auburn Dam and Mineral King), State EIR's (including the California Transportation Plan EIR), local environmental studies and EIR's (including several in the Sacramento area and other urban areas, and several waste processing and industrial facilities), and natural resource plans including master plans for four State parks in Alaska, several urban projects, and the Mammoth Lakes area of California. He has published extensively in the fields of land use planning, environmental constraints and sensitivities analysis, and managing inter-disciplinary environmental, planning and engineering teams.

What is the definition of the term "environment". As I will use it, the word includes natural, social, and economic elements; the "SEE" discussed in the IRWA 601 course on right-of-way and the environment, which I have taught ten times. The course is currently being revised, mainly to update it to include current legislation, but is still based on the notion that the environment includes much more than merely the natural setting.

Within this article three major areas or questions will be examined. They are:

- What are the pre-'80's bases for what may happen in the '80's?
- What are some folks saying about what to expect in the '80's?
- What environmental concerns are there for the '80's?

Re-examining Past Environmental Action

By way of background analysis we really need to re-examine three areas: The 601 Course, National Environmental Policy Act (NEPA) goals, and the November, 1978 Revisions to the NEPA Guidelines. These topics will be our first step toward the '80's.

In Section 1, Introduction of Course 601: Environmental Considerations, the Right-of-Way Professional is described as "an individual already involved in

environmental affairs". How? You are involved in the environment in at least four ways:

- 1) evaluation of property values,
- 2) acquisition of right-of-way land,
- 3) management of right-of-way land, and
- 4) relocation assistance for affected people.

Furthermore, the introduction emphasizes that the definition of "environment" covers "all physical and socio-economic factors". It stresses that such factors also include both technical and attitudinal aspects — the latter may be difficult to grasp, but certainly effects the quality of environment.

Session 24, which is related to trends in environmental matters is a place where we would try to update the course materials. In a number of classes, efforts to streamline NEPA and its application through such things as scoping, inclusion by reference, and time limits was emphasized. In every class, and to be sure in most every case with an EIS or a state EIR (California), our discussion included criticism of the delays caused by NEPA or its daughters.

Maybe a glimmer of what to expect in the 1980's can be seen from the 1970's. Let us relook at a few of the basics of NEPA.

In Section 2, the purposes of the Act are stated to be:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and

welfare of man; to enrich the understanding of the ecological systems and natural resources important to the nation; and to establish a Council of Environmental Quality.

Let me emphasize what I believe are some key aspects of this section which set the stage for environment in the '80's:

- First: "productive and enjoyable harmony . . ." that to me really does mean productive harmony;

- Second: "man AND his environment . . ." that really does put man into the heart of things;

- Third: "stimulate health and welfare of man . . ." that does include both physical and economic welfare; and

- Fourth: "enrich . . . understanding of . . . natural resources . . . important to the nation . . ." that does include use of natural resources.

Section 101(a) of the Act includes, among a wealth of information, two more aspects which I find go to the heart of the current administration's attempts to administer NEPA. They are:

- Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.

- Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

In the late '70's there were some very important changes in NEPA to provide streamlining, shortening, and clarification of the law and its application. The November 29, 1978 Federal Register provides some insight into the building blocks for environment in the '80's. They were:

Section 1500.5 Reducing Delay ... emphasizes that agencies shall work for cooperation rather than as adversaries;

Section 1501.7 Scoping ... shall use

early scoping as a process to determine what is to be covered in an environmental assessment (note that in California this can lead to a Focused EIR. Apparently the same type of focusing is contemplated under federal guidelines);

Section 1501.8 Time Limits ... stated that agencies "shall set" time limits for environmental assessments and related processing, BUT it left the setting of time limits up to the agencies;

Section 1502. Incorporation by Reference ... the guidelines stated that this process "shall" be used. It can prevent mountains of paper (I wonder what the effect was of the requirement for EIS's on our national forests?); and

Section 1506.2 State and Federal Cooperation: Joint EIR-EIS ... the guidelines stressed that federal agencies "shall ... to the fullest extent possible..." use joint EIR-EIS documents on projects where a state and federal environmental assessments are required. Unfortunately some agencies, the

Federal Energy Regulatory Commission for instance, do not.

These are some of the areas that will be strengthened. The question is: how? Let us examine what some people are saying.

What Are Some Folks Saying?

It is not possible in this presentation to review every point of view from every organization involved in the environmental milieu. Let me look at some of the ones which are more important or receive more press.

1. The Sierra Club

No one can summarize all of the stands of this organization, but let me cite some points raised on a series of news articles in the Sacramento Bee illustrated by one on October 18, 1981. "Sierra Club to Fire More Salvos at Watt..." "Watt index" to be used to measure elected officials (is this really an environmental analog of



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Reaganomics?) ... level of "Wattism" to be determined for each official... "and we plan to provide people who can work for candidates who will protect the environment".

What is the Sierra Club? It was formed in 1892. Its membership according to the October article numbers 246,000 (about 0.1% of the people in the United States). In the first week of November the Sierra Club submitted anti-Watt petitions to the Congress signed by 1.2 million people (one-half of 1% of the people of the United States).

They are doing: a more activist, political role. What are they saying?

2. The Environmental Defense Fund

These comments are based on the October 1981 mailing from their Executive Director: the lead line was "Is our environment about to go up in smoke?" ... "Watt and his associates will do an unprecedented hatchet job on essential environmental safeguards that have taken years to establish."

What is the Environmental Defense Fund? The EDF was organized in 1967. According to the mailing, it has 45,000 members (less than 0.02% of the population of the United States). They have done an effective job regarding many issues, including: ban on DDT, strengthening the Clean Air Act, stopping Southern California Edison from being involved with strip mining coal near Bryce Canyon National Park, ban on the use of Tris (a cancer causing flame retardant) in children's sleepwear, and other controls of toxic chemicals.

They are doing: attacking the Reagan appointees. What are they saying?

3. The Urban Land Institute

These comments are from a ULI statement dated May 1980 entitled: Proposed Actions to Reduce Housing Costs Through Regulatory Reform. One set of fascinating statistics they offer relates to

housing changes from 1972 to 1976. They cite:

- medium family income: up 7.05% annually
- new single family home cost: up 12.49% annually
- existing single family home cost: up 9.3% annually. Only 15% of the people can "qualify" for a home loan.

Why the "crisis"? The ULI site five primary reasons:

- 1) inflationary spiral,
- 2) cyclical nature of the industry,
- 3) public restrictions on development,
- 4) decreasing financial resources of communities, and
- 5) special interest group actions.

They note that the latter reason makes home construction more difficult, taking more time and costs more money.

The ULI statement made six suggestions for regulatory reform. Paraphrased, they are:

- 1) simplify and clarify the development review and permitting process;
- 2) make development standards enabling rather than restrictive;
- 3) encourage conservation, including site use, i.e.: density;
- 4) develop equitable taxation (or other financing) to pay for public infrastructure — not just put the whole burden on new home development;
- 5) provide a balanced land supply through city and regional planning; and
- 6) work together: government and industry.

They are doing: trying to update, modernize, and change their industry. What are they saying?

4. The Conservation Foundation

These comments are from the Conservation Foundation's Fall 1981 Quarterly newsletter Resolve. The Foundation urges that Regulatory Negotiation is the key to the future of environmental disputes. But they also point out that one of the primary concerns is "who should determine the 'public interest'?"

Citing Peter Schuck's 1979 article in Regulation the Foundation notes:

Our regulatory system ... has come to rely excessively upon the adjudicatory form (of environmental problem solving) to the relative neglect of direct bargaining between interests.

They are doing: urging passage of HR1336 and S1360 to provide a regulatory negotiation commission which would provide the services of mediators and "raise the level of debate about the role of negotiation in the rulemaking process". What are they really saying?

5. Wildlife Management Institute

These comments are from an article by Dr. Laurence R. John: "Resources Management: Challenge for the '80's" from Water Spectrum, Summer 1981 (a publication of the U.S. Army Corps of Engineers). John notes that there are two coequal objectives of NEPA: economic development and environmental quality. His emphasis was on coequal alternatives.

John cited four primary problem areas:

acid rain: noting a 50 times increase in the last 25 years ... a coal based problem ... the challenge: respond to the need for coal for energy but in a way that does not add to the acid rain problem;

water conservation and management: he emphasized three inter-related problems: minimum stream flows, minimum levels in water bodies, and fresh water to estuaries ... all major problems in land management;

wet lands: John emphasized preserving and re-establishing wet lands (a new kind of "reclamation") for their values ranging from the food chain to floodwater storage;

soils: he emphasized the need to stop erosion which he noted is running at a rate of 12 tons/acre/year! ... about 1% of the U.S. cultivated land per year.

John also stated that:

"Sooner or later we must recognize fully that one country's resource base, even that of the United States, cannot feed the world's human population on a sustained basis."

Finally, John urged that from the point of view of the Wildlife Management Institute, "our efforts should focus on four basic tenets:

- 1) to have wildlife and fish, there must be habitat;
- 2) to have recreational opportunities, including hunting and fishing, there must be adequate supplies of wildlife and fish;
- 3) to enjoy fish and wildlife, there must be access to private and public lands; and
- 4) to harvest fish and wildlife, there must be public acceptance."

What are they really saying?

6. Industry

I can only site one example in the time and space provided here and it will be from correspondence received from the Manager of Environmental Affairs for Northwest Pipeline Corporation, Salt Lake City, Utah (dated September 2, 1981). The letter was in response to a request I recently made of a cross section of environmental professionals on suggestions for up-dating NEPA. It notes:

Since the policies and procedures to implement NEPA are now understood and workable, there is no substantive need to amend NEPA.

But there are three major problems cited in the correspondence. They are:

- duplication of efforts (need to prevent);
- Lead Agency determination and inter-agency cooperation (need to speed-up and strengthen); and
- lack of trust between industry and government.

What is he, what are they, saying?

7. What is the CEQ and Reagan saying?

My comments on what the

Council on Environmental Quality and Presidential staff members are saying are based on meetings I had with the staff on September 21, 1981 and correspondence with them up to November 4, 1981. My conclusions from these items are:

- they feel environmental regulation has been a deterring force — not enabling for resource management; and
- they are looking for and working on suggestions to make NEPA and its related regulations a positive tool for resource management.

Some of the ideas which were assembled from my survey (cited in the previous section) which are being considered by CEQ and the Presidential staff are that federal agencies:

- shall do joint EIR-EIS's;
- shall limit the time for processing an EIS to one year;
- shall tie to existing planning processes; and
- shall cooperate with industry.

What they are doing receives much press. What are they saying?

What Environmental Concerns Are There for the 1980's?

In order to reach some conclusions about what the Environmental Concerns in the '80's will be let us review the answers to these questions: what are folks really saying? can we see a pattern from these statements? and are there some solutions — What is IRWA's role?

1. What Are the Bases?

It is always dangerous to generalize, but let me make the attempt.

- Sierra Club: even more militant, political support for a liberal environmental definition;
- EDF: Congressional push to attack resource users;
- ULI: push for industry-government cooperation in the housing industry;

- Conservation Foundation: work for negotiation as part of the government decision making process;

- Wildlife Management Institute: push for coequal NEPA objectives;

- Industry: push for cooperative programs to cut red tape (an interesting question, itself worthy of an article, might be: is red tape the source of red ink); and

- Presidential Staff: work to cut the red tape and cut-out the red-tapers.

2. From This, Can We See a Pattern?

It seems to me that there is a three-part pattern based on resource use, political action by environmental groups, and streamlining of NEPA-CEQA Procedures.

3. Are There Some Solutions — What is IRWA's role?

Yes, there are solutions and roles for the IRWA professional. May I suggest:

Regarding "The Money Market": we are all hearing the terms "innovative financing" — almost a household word! I urge you to take a long, hard look at Prepaid Tax Credits, not land grabs, as a means to provide for infrastructural payments. Your Seattle chapter could provide the leadership on this since the concept was first implemented for mitigation of social environmental impacts of a nuclear power plant proposed by Puget Light and Power;

Regarding "the Courts": you are all expert in negotiation: it is the heart of acquisition. Certainly your main offices should get involved and provide leadership in the development of these means for realistic problem solving; and,

Regarding the Environment: now is the time to include it in your — our — normal planning and land-use processes — as some of us radical middle roaders have been saying all along:

NOT: DON'T, but: DO IT RIGHT!