

EIS Scoping—Issues and Alternatives

by Thomas F. Slater

The word "scoping" has become common in recent years as it is applied to the planning and environmental impact statement (EIS) processes. The word may be familiar, but I will take a few minutes to amplify the scoping process. It is not a new concept since scoping merely represents the idea that we must "think together before we act." Scoping responds to the need to give coordinated, early direction to the EIS process. The goals are to obtain early public comments, avoid excessive paperwork, prevent statements from becoming huge encyclopedic reports, reduce the writing time, and provide real utility for decision-making.

Scoping, as a formal EIS requirement, was first set forth in 1978 in the Council on Environmental Quality (CEQ) regulations. Prior to that time there was no formal provision for advance public input to the EIS process and the trend was for bigger and bigger EIS documents which appeared to be more attuned to "weight and volume" than to content. It used to be that unless an EIS weighed about 13 pounds in a stack of paper 10 inches high it was not considered acceptable by some people. If done thoroughly, scoping can help avoid the "weight and volume" approach and can result in an EIS process with improved usefulness.

In a nutshell, scoping is intended to help us identify the big issues and real alternatives in a hurry. Scoping can help foster the coordinated management technique of "no surprises."

Scoping includes three major elements. These are:

- (1) Early announcement of proposed actions and opportunity for early response from officials, agencies, and the public;
- (2) Early determination of interests and issues, including environmental resources covered by specific laws and local/regional matters of public concern; and

- (3) Identification of a wide range of alternatives which are screened to determine a set of "reasonable alternatives" for detailed analysis in the EIS. Each EIS team develops a systematic screening process to fit the proposal which is being evaluated. For example, for the Allen-Warner Valley project, the team developed a detailed screening matrix to evaluate 46 alternatives suggested during scoping procedures.

It is important to note that this scoping process must be carried out in an open, objective manner and that before it can be effective, the applicant's proposed action must be well thought out and clearly defined.

Early Announcement and Public Response

The National Environmental Policy Act is a public disclosure law. Early public feedback on proposals, issues, and alternatives helps fulfill the intent of the law, and this helps the land management agencies to concentrate their efforts on those items of greatest public concern.

One of the first things that the land management agencies do after receiving an application for a major project right-of-way is to contact other involved agencies and announce public scoping meetings. The CEQ regulations call for emphasizing interagency cooperation before each EIS is prepared.

One goal of early public response is to obtain initial comments which can be used to shape the EIS analysis and thereby reduce adversary comments on a completed document. Sometimes this is successful and sometimes not; but the concept of early identification of problems (adversary comments) is worthwhile in the EIS expediting effort.

Early Determination of Issues

The CEQ regulations state that "Most important, NEPA documents must concen-

trate on the issues that are truly significant to the action in question, rather than amassing needless detail." The real focus of the scoping effort is to obtain some degree of consensus on the expected content of the EIS before it is written. This means reaching as much agreement as possible on what should be included and also on what should be omitted.

It is true that the early scoping of issues may not be one hundred percent effective, due to changes in people and/or events during the EIS preparation period; however, it has been working effectively enough to establish a new trend of relatively small and useful documents. Small documents do not mean that the necessary supporting study of the issues is any less, but the extraneous items and paper production are reduced. The EIS is not the end product for its own sake.

For most proposed projects, the applicants and the land management agencies usually have a good idea of some major issues. We usually share these with the public as a starting point for scoping meeting discussions. We ask the public to comment on, expand, or delete the issues we have listed, as well as add any new issues that are important. Public scoping meetings have varied degrees of success, depending on the amount of advance project publicity and the potential for controversy. It is important that Federal, State, and local agencies also contribute scoping input at this time. After the meetings, the EIS team will analyze the scoping comments and, based on the nature and number of the comments, make a determination on the level of detail needed for suitable EIS coverage.

It should be recognized that the scoping process will not satisfy every individual involved since issues and alternatives incorporated in the EIS will be based on the views of the collective majority of those involved in scoping. For example, if one person at a scoping meeting says that

grasshoppers are important but no one else agrees, then the EIS document will not have anything in it on grasshoppers and that person may be disappointed. It would be counter-productive to the goals of scoping to accommodate every individual concern unless it is judged significant by the majority of the scoping participants and/or due to legal requirements.

Identification of Alternatives

The EIS scoping process addresses the identification of alternatives. According to the CEQ regulations, the EIS section on alternatives "is the heart of the environmental impact statement." These regulations provide six specific criteria as follows:

... agencies shall:

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
- (c) Include reasonable alternatives not within the jurisdiction of the lead agency.
- (d) Include the alternative of no action.
- (e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.
- (f) Include appropriate mitigation measures not already included in the proposed action or alternative.

In the above quotation, several key words stand out. Words such as "reasonable alternatives," "substantial treatment," "comparative merits," and "agency preferred alternative" deserve particular attention as they appear to set the standard for EIS adequacy and usefulness. Please note, however, that such a standard is not set forth in measurable terms; therefore, sole reliance on judgment interpretation is required. Sometimes this judgment can be based on previous project experiences and sometimes a new or unique approach will be needed to accommodate case-by-case situations.

Often this may be where the real scoping dilemma arises:

(1) Applicants, agencies, and the public may disagree on the nature of a "reasonable alternative."

(2) The idea of "substantial treatment" gives rise to questions on level of detail and baseline data needs, which in turn involve questions of time, money, and utility.

(3) "Comparative merits" infers that each reasonable alternative (including the proposed action) will be treated equally so that a true comparison can be made. This would then imply equal baseline data collection, project design efforts, and analysis through the EIS phase for each alternative. While very appealing in concept, in some cases this may have some real problems in terms of practicality.

(4) Selection of an "agency preferred alternative" is usually complicated by the preceding three problem areas and by two other often unavoidable factors: One factor is concurrent or subsequent activities by others outside the responsibility of the agency preparing the EIS, and the second is data gaps or other uncertainties. Every major energy project involves numerous participants or agencies with decisions to make and some consistency among these entities needs to be maintained, if possible. Also, the need to make decisions in the face of unavoidable data gaps or uncertainty is a fact of life. While the EIS itself is not the decision document, the selection of the agency preferred alternative in an EIS can be considered as an initial approximation of the decision to be made. This selection can be strongly influenced by the EIS scoping input.

One thing that really helps the land management agencies cover the treatment of alternatives in an EIS is for the applicant's own pre-application planning process to reflect a good investigation of alternatives. This means a serious look at a wide range of alternatives in an objective and systematic manner, with written documentation.

Four important points should be noted in connection with the identification of alternatives in the scoping process:

(1) A quick brush-off as may have been done in early (pre-1978) EISs will not be acceptable for reasonable alternatives. Formerly, under the old format, alternatives were buried in Chapter 8 of an EIS and the average readers would be very tired of reading through the thick stack of paper before they reached that point.

Consequently, little attention was paid to alternatives. Under the current format, alternatives are interwoven throughout the entire document (from start to finish) and substantial treatment is essential.

(2) Neither applicants nor land management agencies want to spend unneeded time, money, and effort to analyze "paper" or "straw-man" alternatives;

(3) The objective of the alternatives must be to accomplish at least a portion of the necessary end result (project purpose) in a reasonable manner with minimum environmental impact; and

(4) Alternatives identified and analyzed in an EIS are in a sense good insurance to help a project meet part or all of the identified needs (i.e., succeed) in the event that problems are encountered with the original proposal.

The EIS scoping process provides us with the opportunity for at least partial fulfillment of *Finagles Rule Number One*, which reads, "To study a subject best, understand it thoroughly before you start."

Report Available On Natural Gas Pipeline Work

The Michigan Public Service Commission has published a report entitled "Future Pipeline Development in the Northeast Michigan Coastal Zone and Niagaran Trend: A Regional Analysis of Environmental Resources and Land Use."

The purpose of this report is to highlight sensitive areas that will need a closer evaluation if a proposed pipeline route enters them. The value of this report is in its use as a planning tool before the pipeline route is established.

Copies of the report with portions of the overlays are available for \$5.00 from: Scientific Research and Evaluation Section, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. For further information, contact: George Carpenter at 517-373-8690.