Environmental Case Study

Is NEPA an Impediment?

Signed into law by President Nixon in 1970, the National Environmental Policy Act (NEPA) is the cornerstone of U.S. environmental policy. Conservationists see this act as a powerful tool for environmental protection, but commercial interests blame it for gridlock and consider it an impediment to business. In 2002 President Bush created a task force to study streamlining NEPA and make it less burdensome for industry. Conservationists worry this is really an effort to weaken the law and return to laissez-faire resource management.

NEPA does three important things: (1) it authorizes the Council on Environmental Quality (CEQ), the oversight board for general environmental conditions; (2) it directs federal agencies to take environmental consequences into account in decision making; and (3) it requires an Environmental Impact Statement (EIS) be published for every major federal project likely to have an important impact on environmental quality (fig. 24.1). NEPA doesn't forbid environmentally destructive activities if they comply otherwise with relevant laws, but it demands that agencies admit publicly what they plan to do. Once embarrassing information is revealed, however, few agencies will bulldoze ahead, ignoring public opinion. And an EIS can provide valuable information about government actions to public interest groups that wouldn't otherwise have access to these resources.

What kinds of projects require an EIS? The activity must be federal and it must be major, with a significant environmental impact. Evaluations are always subjective as to whether specific activities meet these characteristics. Each case is unique and depends on context, geography, the balance of beneficial versus harmful effects, and whether any areas of special cultural, scientific, or historical importance might be affected. A complete EIS for a project is usually timeconsuming and costly. The final document is often hundreds of pages long and generally takes six to nine months to prepare. Sometimes just requesting an EIS is enough to sideline a questionable project. In other cases, the EIS process gives adversaries time to rally public opposition and information with which to criticize what's being proposed. If agencies don't agree to prepare an EIS voluntarily, environmentalists can petition the courts to force them to do so.

Every EIS must contain the following elements: (1) purpose and need for the project, (2) alternatives to the proposed action (including taking no action), (3) a statement of positive and negative environmental impacts of the proposed activities. In addition, an EIS should make clear the relationship between short-term resources and long-term productivity, as well as any irreversible commitment of resources resulting from project implementation.

Figure 24.1 Every major federal project in the United States must be preceded by an Environmental Impact Statement. © Corbis/Volume 160.
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Among the areas in which the Bush administration has tried recently to ignore or limit NEPA include forest policy, energy exploration, and marine wildlife protection. The “Healthy Forest Initiative,” for example, called for bypassing EIS reviews for logging or thinning projects, and prohibited citizen appeals of forest management plans (chapter 12). Similarly, when the Bureau of Land Management proposed 77,000 coal-bed methane wells in Wyoming and Montana, the administration claimed that water pollution and aquifer depletion associated with this technology didn’t require review (chapter 19). And in a court case involving a Navy plan to test sonar devices in the Pacific that might harm marine mammals, the Justice Department argued that environmental laws don’t apply in waters more than 3 miles off U.S. shores.

What do these cases mean to you? Perhaps you don’t live near a coastline or an area slated for forest thinning or gas drilling, but it’s almost certain that federal agencies or corporations that do business with them have projects with potential adverse effects on your local environment. To be informed environmental citizens, we all need to know something about how policies and laws like NEPA are created and applied. In this chapter, we’ll look more deeply into environmental policies and how the legislative, legal, and administrative systems work to fulfill or frustrate them.