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Application of Public Participation Principles in EIA

Strengthening Public Participation in
Environmental Management in Indonesia
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Role of Public Participation in Environmental Impact Assessment

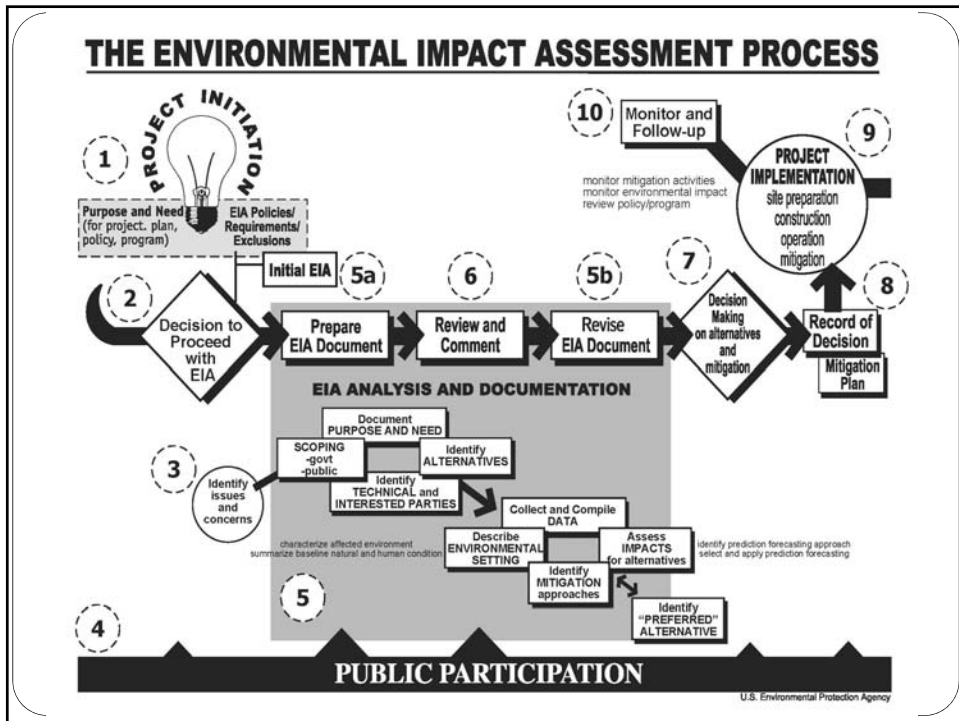
Three main ingredients to EIA:

- Decision-making process
- Documented evaluation of potential impacts
- Involves all Stakeholders, throughout --Why?
 - relevant information
 - better decisions
 - builds understanding and legitimacy
 - often results in creative solutions
 - useful role in monitoring follow up
 - minimize cost and delay from unresolved conflicts
 - facilitates implementation

Key Milestones and Responsibilities in the EIA Process		
	Project Proponent	Government
4 Public Participation throughout	1 Initiate Project	
	2 Prepare EIA Application	2 Screening: Review EIA Application and Categorization
	3 Scope EIA Issues	3 Prepare Terms of Reference and Scope EIA issues
	5a Prepare and Submit EIA Document	
		6 Review EIA Document
	5b Correct deficiencies and respond to comment	
		7 Decision on Project
		8 Incorporate commitments into legal agreements
	9 Implementation of Project, Environmental Measures and financial assurance	
	10 Correct violation	10 Auditing, compliance monitoring and enforcement

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8/31/2011



Key Elements to Defining Public Participation Role in EIA Process:

- 1 Understand public participation requirements for EIA
- 2 Incorporate public participation principles in EIA
- 3 Identify the Public and Stakeholders
- 4 Define decision making roles of stakeholders/public
- 5 Tailor and apply public participation tools
- 6 Respond to interests: avoid/mitigate/compensate
- 7 Implement environmental conflict resolution
- 8 Transparency and documentation
- 9 Define performance in terms of success indicators

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1: Understanding Requirements For Public Participation in EIA

- General Requirements and Purposes
- Public Participation Plan
- Public Notification
- Public Scoping
- Public Consultation
- Public Disclosure
- Solicitation of Public Written Comment
- Public Hearings
- Consideration of Public Comments
- Allocation of costs

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2: Incorporating Lessons from Public Participation Successes

Five consistent lessons:

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • Adapt the process to meet the needs of the circumstances |  | <ul style="list-style-type: none"> • Public participation requires tailored assessment of the affected communities/individuals/stakeholders which needs to be revisited throughout the process |
| <ul style="list-style-type: none"> • Reach out to and understand the audience |  | <ul style="list-style-type: none"> • Some publics/stakeholders require a special effort to overcome barriers, e.g. of language, culture and history of actions creating distrust |
| <ul style="list-style-type: none"> • Start early in the EIA process |  | <ul style="list-style-type: none"> • Early in the EIA process may be late in project decision making when EIA is process is started late, an afterthought |
| <ul style="list-style-type: none"> • Consider public consultation and involvement an ongoing process, not a one time event |  | <ul style="list-style-type: none"> • Difficult to define some steps in advance as EIA is a dynamic process |
| <ul style="list-style-type: none"> • Attempt to find ways to be responsive to concerns without compromising scientific integrity, law, or feasibility |  | <ul style="list-style-type: none"> • Some try to avoid response rather than find acceptable response to interests and concerns |

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For Meaningful Public Participation

Meaningful public participation requires much more than simply holding public meetings or hearings or collecting public comment.

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3: Identifying potential stakeholders

- Communities affected by the proposed action
 - Communities of Place and Interest
 - Geographical Location
 - Economic Interests
 - Activities
 - Common Interests
- Identify all of the groups and citizens interested in or affected by your project or decision and engage them.
- Stay alert for new voices – including future generations.
- Individual citizens with a specific interest
- National or grass roots non governmental organizations (NGO) with a specific interest in the proposed action
- Industry and economic development interests
- State, local, tribal government
- Special attention to interests of vulnerable and indigenous populations, i.e., minorities, ethnic groups, indigenous people

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Consider that:

- There is no single public interest – Nor does the public have a single common view.
- Each affected interest or public may have a different preferred or effective means of communication e.g.
 - Language issues
 - Representation issues
 - Access to Communications technology/media
- The different communities of the public need to hear and understand each other.

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4: Decision role of public/stakeholders

- Public participation can be any process that directly engages the public in decision-making and gives full consideration to public input in making that decision.

- EPA Public Participation Toolkit

“ Public participation is the direct engagement of all voices in a planned effort to make responsible and sustainable decisions.”

- Department of the Interior Training in
“The Principles of Effective Public Participation”

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Public participation is an open, ongoing, two-way communication, both formal and informal between [government entity] and its stakeholders--- those interested in or potentially affected by an action. The purpose of this interactive communication is to enable both parties to learn about and better understand the views and positions of the other. Public participation provides a means for [government entity] to gather the most diverse collection of options, perspectives, and values from the broadest spectrum of the public allowing [government agency] to make better and more informed decisions. In addition, public participation benefits stakeholders by creating an opportunity to provide comments and influence decisions.

U.S. Department of Energy, Secretary Public Policy Statement

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Participation “in” is not “decision-maker”... role should be clear to the participating publics

IAP2 Public Participation Spectrum

Developed by the International Association for Public Participation

INCREASING LEVEL OF PUBLIC IMPACT				
INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Public Participation Goal: To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	Public Participation Goal: To obtain public feedback on analysis, alternatives and/or decisions.	Public Participation Goal: To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	Public Participation Goal: To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	Public Participation Goal: To place final decision-making in the hands of the public.
Promise to the Public: We will keep you informed.	Promise to the Public: We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	Promise to the Public: We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	Promise to the Public: We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	Promise to the Public: We will implement what you decide.
Example Techniques to Consider: <ul style="list-style-type: none"> ● Fact sheets ● Web sites ● Open houses 	Example Techniques to Consider: <ul style="list-style-type: none"> ● Public comment ● Focus groups ● Surveys ● Public meetings 	Example Techniques to Consider: <ul style="list-style-type: none"> ● Workshops ● Deliberate polling 	Example Techniques to Consider: <ul style="list-style-type: none"> ● Citizen Advisory Committees ● Consensus-building ● Participatory decision-making 	Example Techniques to Consider: <ul style="list-style-type: none"> ● Citizen juries ● Ballots ● Delegated decisions

5: Applying Public Participation tools to EIA process:

- Public hearings
- Public comment periods soliciting written comment letters
- Public meetings
- Small group meetings, focus groups or workshops
- Advisory groups and task forces
- News releases, newsletters with public comment forms, fact sheet, flyers
- Media – feature stories, interviews, public service announcements
- Project/program Web sites
- Information repositories or clearinghouses
- Speakers bureaus
- Surveys or polls
- Mailing lists
- Briefings by and for public officials
- Social networking (facebook, twitter, etc.)
- Open house, coffee klatches,
- Visioning

TOOL KITS Accessible on the Internet

Local governments can play a crucial role as conveners



And represent their community in their own right... but only up to a point.....

“ I am concerned that, in the past, so much deference has been given to include state, local, and tribal governments in pre-project planning, that when the public is brought into the process the decision has all but been made.” (Rogue River, OR)

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Dynamic/iterative public participation plan is needed for the dynamic EIA process

- Dynamics of changing who might be the Interested parties/public at different stages of the EIA process:
 - Initial project description
 - Understanding of impacts
 - Design and identification of potential mitigation
 - Follow up monitoring or implementation of mitigation
- Limited time and resources coupled with the difficulty of defining how much is enough in order to plan and budget.

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Into the dynamic process of EIA

- Early public scoping: influences the Terms of Reference, the scope and issues for the analysis
 - If the ToR requires public scoping, then how will the ToR respond to the results of scoping?
 - Should the Ministry of Environment be staff be included in the scoping events? informed of the results of scoping and have the opportunity to get more involved in the response?
 - How should the Public Participation Plan include a dynamic element to Public Participation?

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Assessment itself must be a part of the public participation process

- Public participation is not just soliciting the views or opinions of the public/stakeholders, it requires that their interests in affected resources be identified and assessed and potential for avoidance and mitigation be sought
- EIA uniquely must link the assessment of potential impacts on a resource to the past, present and future uses of that resources to capture the affected parties.
- Whether or not that public has a “voice”.

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Application of the tools depend on

The purpose of the participation

- Is the purpose to notify? And inform?
- To solicit information and interests?
- To seek accommodation?
- To register objections?
- To seek to resolve potential conflicts?

Situation assessment

- Nature of the communities/stakeholders
- Nature of the proposed project

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Asking the right questions

Preferred questions provide useful information about interests and values that should be protected and allows the project proponent to develop alternative means of protecting those values or resources. The other form of question locks in opinions and does not provide information needed to address underlying concerns.

Prefer: How do you use the river? When, where, and for what species? How do you gain access? What is most important to you about the river? What, if any, concerns do you have about the project's potential impact on the river?

To: What is your opinion about the proposed project?

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6: Responsiveness

What does responsiveness mean?

- Written responses to each written or oral comment? Individually or grouped?
- Summary of key issues and comments?
- Specific steps to avoid, mitigate, compensate or justify why steps cannot be taken?
- Incorporating public interests (broad and narrow) within public and private investment decisions
- Does responsiveness demand that the stakeholder feel responded to? Who is to judge?

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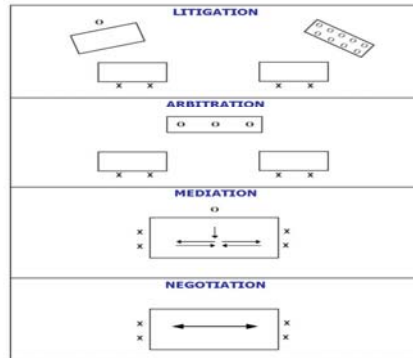
7: The EIA challenge: Addressing Environmental Conflict Resolution

- How can EIA's transparent, informed decision making procedures provide an opportunity to transform potential controversy of diverse levels and branches of government, public and private interests into successful outcomes that benefit all parties?
- Well designed and executed conflict resolution processes are capable of producing decisions that reflect sustainable development goals.

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Conflict Resolution Techniques

- Case evaluation/neutral evaluation
- Collaborative monitoring
- Conflict assessment
- Conflict resolution
- Consensus building
- Joint fact-finding
- Mediation
- Arbitration



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Making time and space to resolving conflicts can enhance results

“Just as it takes time and irritation for oysters to make pearls, the EIA process needs to create the time and context to achieve sustainable/ win-win solutions ”

Cheryl Wasserman quote



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8: Transparency and Documentation: Rights to access and confidentiality

- EIA documents generally should be public.
- Limited exceptions for confidential business information on the project processes and sensitive information on cultural sites and endangered species that would endanger them if publically available.
- Country laws differ and project proponents and under some laws consultants claim a proprietary interest in the documents and analysis.

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New Tools can help the public identify their interests: NEPAssist: Overview

a digitized polygon	.433 sq/mi
Within 400 meters of an NMA wetland?	Yes
Within 400 meters of an American Heritage River?	No
Within 400 meters of a Wild and Scenic River?	No
Within an Area of Concern (Great Lakes)?	No
Within 400 meters of a Great Lakes shoreline?	No
Within Great Lakes basin?	No
Within 400 meters of an Environmentally Sensitive Shoreline?	No
Within an NMA wetland?	Yes
Within 400 meters of a Pipeline?	No
Within 400 meters of an Oil Storage Facility?	No
Within 400 meters of a Navigation Lock/Dam?	No
Within 400 meters of a Non-navigational Dam?	No
Within 400 meters of a Marina?	No
Within a Wildlife Refuge?	No



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Web accessible EIA Tracking systems facilitate transparency

- Tracking systems now in Dominican Republic and EL Salvador make all documents public from receipt of application through the entire process.
- Issue of access to decisions on categorization, documentation of applications, additional information, etc.

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9: Measures of success in designing a successful public participation process

- Were all interested parties notified? Proposal? Impacts? Measures?
- Did all interested parties have an opportunity to be heard?
- Were they consulted, and did the response reflect their input? Was a diligent effort made to respond?
- All communities are engaged
- The role of the public is clearly defined
- The opportunity exists to influence decisions
- Interests are identified and all feasible attempts are made to address concerns.
- Were benefits of the proposal advanced? Costs reduced? Impacts acceptable?

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Barriers to Public Participation

- Involvement is late or single points in time
- Public doesn't understand how to get engaged
- Public is often non-technical
- Inadequate communication of information:
Lack of trust/ perceived lack of influence
- Lack of time and resources to participate
- Written comments which are not sufficiently detailed, supported, or specific and/or do not offer solutions

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Bottom line:

- Sharing information is not enough. Should be committed to consider public input.
- Evaluate the setting and tailor
 - Controversial site or issue
 - Vocal community opposition
 - Organized and active NGO community
- Early and Often
- Provide opportunities and time to resolve conflicting interests for benefits for all

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