

# **Appendix D**

---

## **Public Involvement— Scoping**

THIS PAGE INTENTIONALLY LEFT BLANK

## D.1 Introduction

Scoping is an early and open process to determine the scope of environmental issues and alternatives to be addressed in an EIS. The public plays an integral role in the scoping process. The various points of view expressed in scoping comments were used by the National Park Service (NPS) to frame the issues to be resolved through the NEPA process and documented in this EIS.

During scoping, comments from the public were solicited in a variety of ways, outlined below. Scoping responses were analyzed to determine the full set of concerns expressed by the public, without regard to how often or from whom these opinions were expressed.

## D.2 Scoping Methodology

Scoping began with a variety of published requests for public input. More than 100 responses were received.

The NPS published a notice of intent to prepare an environmental assessment (EA) in the Federal Register on June 25, 2001.<sup>1</sup> An effort was made at that time to contact members of the public with an interest in providing input on potentially implementing benefits-sharing agreements in NPS units. More than 5,000 scoping newsletters were mailed to research scientists working in national park units servicewide, as well as to biotechnology associations, Native American tribes, organizations with an interest in national parks, NPS personnel, and others who expressed interest. A web site was established with background information and an invitation to comment via e-mail. A press release and fact sheet were distributed to national news media. Articles appeared in a variety of newspapers. Notices were posted in the nationwide NPS Morning Report and other NPS e-publications. Scoping comments were accepted between June 25 and August 27, 2001, for a total of 63 days.

The NPS received several comments suggesting that the EA should be an EIS. Subsequent to receiving comments that the EA should be an EIS, the NPS decided that the evaluation of benefits-sharing would be better served by the preparation of an EIS. The NPS published a notice of intent to prepare an EIS in the Federal Register on April 12, 2002.<sup>2</sup> Newsletters were once again mailed to more than 5,000 people, including all those who had submitted comments during the previous scoping period. Additional scoping comments were accepted between April 12 and May 31, 2002, for a total of 49 days. Accordingly, public comments were accepted for a total of 112 days during both scoping periods.

During the initial scoping period, 70 comment messages were received on a variety of items. A majority of messages (41) were received electronically. Messages were received from 21 states and one foreign country. During the second scoping period, 48 comment messages were received. A majority of messages (37) were received electronically. Messages were received from 17 states and several foreign countries.

Scoping comments were received from 93 individuals and from the following 25 organizations:<sup>3</sup>

Alliance for Wild Rockies  
American Wildlands  
Biotechnology Industry Organization  
Campaign for Responsible Transplantation  
Colorado Grizzly Project  
Costa Rica's National Biodiversity Institute (INBio)  
Defenders of Wildlife  
The Ecology Center  
EcoSystems Alert  
The Edmonds Institute  
Escalante Wilderness Project  
The Foundation for Sustainable Development (GAIA)  
Friends of the Escarpment  
Greater Yellowstone Coalition  
GreenBeing, Inc.  
International Center for Technology Assessment  
National Parks Conservation Association  
Native Forest Network  
Peace Habitat and Conservation Trust Society  
Public Employees for Environmental Responsibility  
The Sierra Club  
Wana Mandhira Foundation  
Washington Biotechnology Action Council  
Wilderness Watch  
The ZHABA Collective

## **D.3 Analysis Methodology**

Scoping responses were processed by extracting the specific points made by each respondent and then organizing these points under thematic headings. These themes, as articulated by scoping respondents, helped frame the issues to be resolved through the NEPA process and documented in this EIS.

All comments and concerns were considered, whether they were presented by a single person or by several people. Emphasis in this process was on the content of the comment, rather than the number of people who submitted it. All comments were treated individually and equally during processing. They were not weighted by number, organizational affiliation, or other status of respondents.

All messages were retained for future reference, including hard copies of electronic messages.

Most messages contained multiple separate comments related to separate specific points being made by the message writer (the respondent). The NPS identified 294 separate comments in 118 messages.

Comments from all respondents were organized thematically under headings called “Statements of Concern.” Each Statement of Concern presented, in a simple statement, a common theme found in the body of public comment. The Statements of Concern, accompanied by verbatim quotes from respondents, provided a summary of public comment. These Statements of Concern were available to the Interdisciplinary Team (IDT) and used in preparation of this EIS.

Every comment in every message was coded for entry into a database and double-checked with the primary purpose of ensuring that every comment in every message was identified for consideration by the IDT.<sup>4</sup> These codes allowed quick access to the full range of comments relating to specific themes. Neither the codes nor the Statements of Concern replaced consideration of the messages themselves; instead, they helped provide guidance and organization to comments on specific topics of interest.

## **D.4 How Scoping Comments Were Addressed**

All of the concerns expressed by the public were incorporated into the preparation of this EIS. The various points of view expressed in scoping comments were used by the NPS to frame the issues to be resolved through the NEPA process and documented in this EIS.

### **D.4.1 Issues Analyzed as Impact Topics in Chapter Four**

- NPS natural resource management
- NPS visitor experience and enjoyment
- Social resources: the research community
- Social resources: NPS administrative operations

### **D.4.2 Issues Addressed in the Alternatives in Chapter Two**

- Should benefits-sharing be implemented?
- Uses and distribution of potential benefits
- Criteria for requiring benefits-sharing
- Content of benefits-sharing agreements
- Potential confidentiality of benefits-sharing agreements
- Sale or commercial use (“commercialization”) of NPS resources
- Impacts of benefits-sharing on potential consumptive use (“harvesting”) of NPS biological resources
- Benefits-sharing and Native American rights
- Potential impacts of research on natural resources

### **D.4.3 Issues Not Evaluated Further in this FEIS**

- Genetic engineering
- Intellectual property rights
- Congressional appropriations
- Administration of scientific research activities in the NPS

## D.5 Initial Scoping Process and Public Participation

In this section, public comments are summarized in general terms and the way the NPS incorporated the comments into the FEIS is identified.

COMMENT: The NPS initially planned to prepare an EA. However, public comments resulted in the NPS decision to prepare an EIS. Early in scoping, several respondents insisted that an EA would be insufficient to properly evaluate the decision whether or not to implement benefits-sharing. Even when this opinion was based upon a misunderstanding of the decision to be made and the resources that might be at stake, it illustrated a sense of controversy regarding benefits-sharing. These commenters also argued that implementing an NPS policy that might inadvertently affect how specimen collection is authorized must be subject to a higher standard of review than an EA.

EIS: The NPS is preparing an EIS rather than an EA.

COMMENT: A number of respondents were under the misapprehension that benefits-sharing agreements would authorize an inappropriate commercial harvest or that that this programmatic EIS would try to evaluate the commercialization of NPS natural resources. They warned against such commercialization and against any programmatic authorization for any use of natural resources. There was also a concern that once an NPS resource was understood to be valuable, there might be pressure to harvest or poach that resource.

EIS: No alternative in the EIS proposes a new way to authorize collection of any natural resources. Every alternative in the EIS retains current policies and procedures that protect park resources (*see* Chapter 2).

COMMENT: Respondents gave contradictory advice concerning the potential impact of benefits-sharing on the meaning and value of the NPS—in other words, on the NPS mission. Some insisted that benefits-sharing would be good for the NPS, allowing more effective preservation of resources and serving as a source of pride to Americans. Others were equally adamant that benefits-sharing has no place in a national park, or that scientific research must not be allowed if its goal is to discover useful products or processes from the study of nature.

EIS: The alternatives provide a clear choice among these various opinions (*see* Chapter 2).

COMMENT: Research activities are closely related to benefits-sharing in the minds of many people. Commenters advised the NPS to ensure that the information uncovered during park research would be available to park managers. Some comments suggested that the scope of the EIS should be expanded to include an assessment of scientific research in general in the NPS.

EIS: The administration of scientific research in the NPS is outside the scope of this EIS (*see* Chapter 2).

COMMENT: Comments were received supporting scientific endeavors in parks and warning

against any action that might inhibit the search for a deeper understanding of park resources. A number of people suggested that the paperwork burden associated with a benefits-sharing requirement might discourage researchers from submitting or completing research proposals, thus effectively reducing the quantity of research performed in the NPS.

EIS: Alternative B (Implement Benefits-Sharing) would not require additional obligations from the vast majority of park researchers (*see* Chapter 4).

COMMENT: The public warned the NPS against allowing the evaluation of research proposals to be influenced by potential profitability. Some people suggested that scientific research projects should be subject to NEPA review, not realizing that every research proposal (almost 3,000 in 2001) is already required to undergo a separate, case-specific NEPA review.

EIS: The EIS proposes mitigation to prevent the research permitting process from being influenced by benefits-sharing considerations (*see* Sections 2.4.6 through 2.4.6.4, and Section 4.4.5.5).

COMMENT: Commenters suggested a number of conflicting criteria that should be used to determine who should be subject to benefits-sharing, or when that determination should be made. For instance, some suggested that the main criterion for requiring a benefits-sharing agreement should be the affiliation (corporate versus academic) of the researcher. Others suggested that the main criterion should be whether or not the research project had a chance of ever discovering a valuable application for research results. Others suggested excluding any project that is expected to recover a negligible financial return. A few respondents asserted that nobody should be required to submit to benefits-sharing.

EIS: Alternative B provides criteria for requiring benefits-sharing. Alternatives A and C would not require any benefits-sharing (*see* Chapter 2).

COMMENT: Terms and conditions of benefits-sharing agreements were the subject of concern for many respondents. There was virtual unanimity among these commenters that the NPS should receive “fair value,” but little specific guidance regarding how to achieve such a goal. Some respondents implied that “industry standards” exist to guide the negotiation of benefits. A few responders opined that all terms and conditions of benefits-sharing agreements should be a matter of public record. Some wanted to have each agreement subject to a public comment period prior to its execution. In addition, some respondents were concerned about the enforcement of the terms and conditions of benefits-sharing agreements, asserting that cheating would be easy for a disreputable biotech scientist.

EIS: Alternative B provides details that address these concerns (*see* Chapter 2).

COMMENT: The public presented many views of how best to use benefits. These commenters assumed that benefits would be required, and suggested appropriate uses for both financial and in-kind benefits. Suggestions for the use of benefits included support of conservation, restoration, preservation, research, and education projects. The public also made it clear that they were concerned that a perceived financial income from benefits-sharing might encourage Congress to reduce appropriations.

EIS: Alternative B dedicates all benefits to the conservation of park resources. Congressional appropriations are outside the scope of this EIS (*see* Chapter 2).

COMMENT: A number of people were concerned about topics that are outside the scope of this EIS, such as whether or not the NPS should support U.S. intellectual property laws. A form letter was received from several people opposed to research that might result in the invention of genetically modified organisms for potential use in agriculture, industry, or medicine.

EIS: These concerns are outside the scope of this EIS (*see* Chapter 1, Section 1.9.2).

COMMENT: Finally, some respondents had specific advice regarding laws, case law, regulations, and policies that should be kept in mind while preparing the EIS.

EIS: The legal framework for this FEIS is discussed in Chapter 1.

## Notes

### Section D.2 Scoping Methodology

<sup>1</sup> 66 Fed. Reg. 33712, 33713.

<sup>2</sup> 67 Fed. Reg. 18034, 18035.

<sup>3</sup> One hundred-eighteen messages were received, some of which were signed by more than one respondent. These included 93 individual respondents and 25 organizational respondents.

### Section D.3 Analysis Methodology

<sup>4</sup> Comments were entered as verbatim quotes into a database developed under NPS contract and used for the recent Bison Management EIS in Yellowstone National Park.