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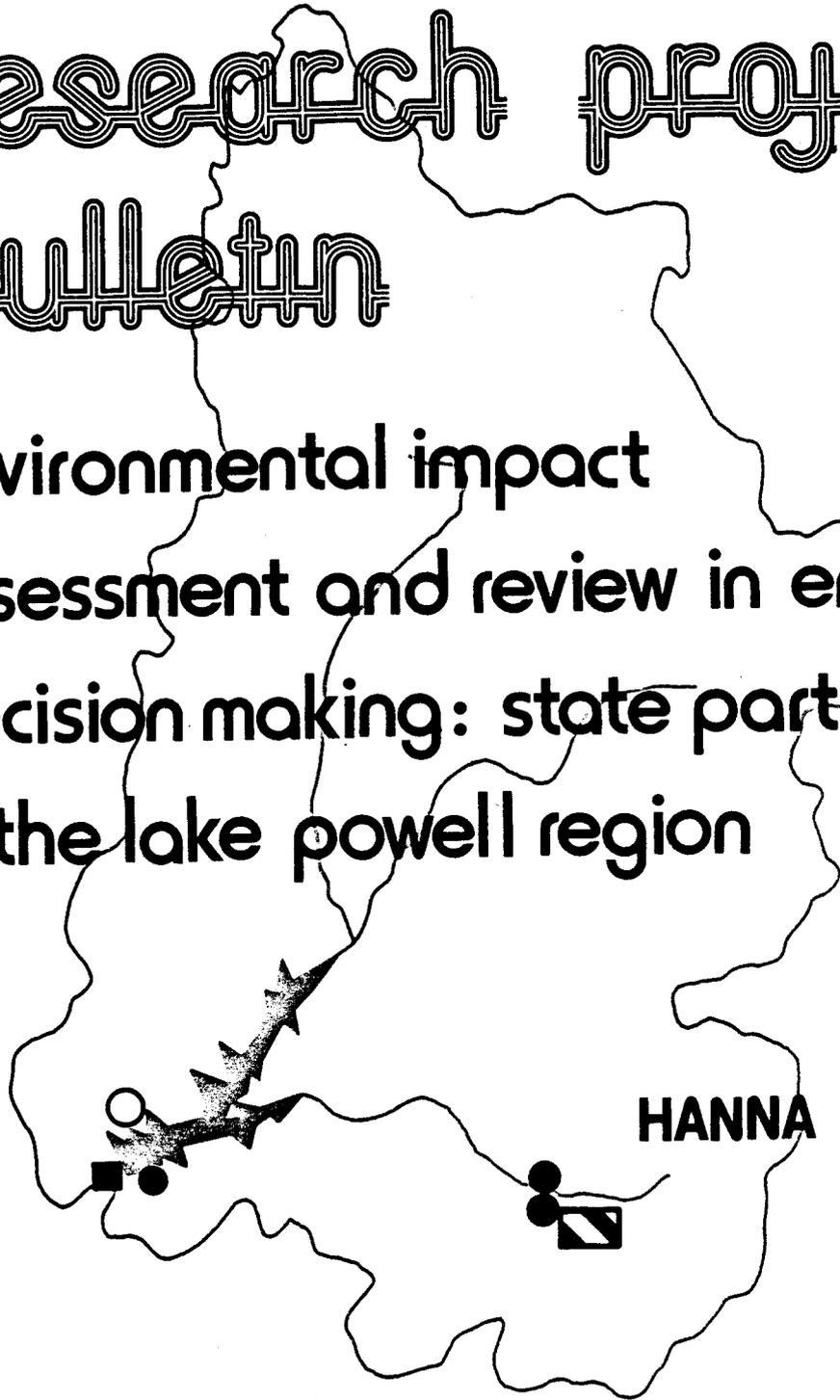
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in the lake powell region



HANNA J. CORTNER

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LAKE POWELL RESEARCH PROJECT BULLETIN

BULLETIN EDITORS

Jeni M. Varady and Orson L. Anderson

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COLLABORATIVE RESEARCH ON ASSESSMENT OF MAN'S ACTIVITIES
IN THE LAKE POWELL REGION

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ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW
IN ENERGY DECISION MAKING:
STATE PARTICIPATION IN THE LAKE POWELL REGION

Hanna J. Cortner

School of Renewable Natural Resources
University of Arizona
Tucson, Arizona 85721

April 1977

LAKE POWELL RESEARCH PROJECT

The Lake Powell Research Project (formally known as Collaborative Research on Assessment of Man's Activities in the Lake Powell Region) is a consortium of university groups funded by the Division of Advanced Environmental Research and Technology in RANN (Research Applied to National Needs) in the National Science Foundation.

Researchers in the consortium bring a wide range of expertise in natural and social sciences to bear on the general problem of the effects and ramifications of water resource management in the Lake Powell region. The region currently is experiencing converging demands for water and energy resource development, preservation of nationally unique scenic features, expansion of recreation facilities, and economic growth and modernization in previously isolated rural areas.

The Project comprises interdisciplinary studies centered on the following topics: (1) level and distribution of income and wealth generated by resources development; (2) institutional framework

for environmental assessment and planning; (3) institutional decision-making and resource allocation; (4) implications for federal Indian policies of accelerated economic development of the Navajo Indian Reservation; (5) impact of development on demographic structure; (6) consumptive water use in the Upper Colorado River Basin; (7) prediction of future significant changes in the Lake Powell ecosystem; (8) recreational carrying capacity and utilization of the Glen Canyon National Recreation Area; (9) impact of energy development around Lake Powell; and (10) consequences of variability in the lake level of Lake Powell.

One of the major missions of RANN projects is to communicate research results directly to user groups of the region, which include government agencies, Native American Tribes, legislative bodies, and interested civic groups. The Lake Powell Research Project Bulletins are intended to make timely research results readily accessible to user groups. The Bulletins supplement technical articles published by Project members in scholarly journals.

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ABSTRACT

This Bulletin examines the organizational structures and procedures the States of Arizona, Colorado, New Mexico, and Utah have implemented to take advantage of the National Environmental Policy Act (NEPA) requirement for the environmental impact statement, and it assesses whether the states have utilized their review and comment opportunities to increase state leverage and influence in energy decision-making. Discussions are presented of Office of Management and Budget Circular A-95 which is the principal mechanism the federal government has provided to facilitate and coordinate state input into the development and review of impact statements, state A-95 procedures in the impact statement process, the level of state participation in statement review, and the factors determining these patterns of participation. Special attention is given to Utah's equivalent to NEPA, which requires the preparation of state environmental impact statements, and to the Environmental Coordinating Committee and planning coordination mechanism that oversee the assessment and review process. The Bulletin concludes that increased state participation in NEPA's formal decision-making requirements will not necessarily result in fewer environmentally damaging energy decisions.

I. INTRODUCTION

The Political Science II Subproject of the Lake Powell Research Project (LPRP) is concerned with the institutional changes which have occurred as a result of increased energy development activities in the Lake Powell area. Of particular interest is the effect that the National Environmental Policy Act (NEPA) of 1969 and its environmental impact statement (EIS) requirement¹ have had on the flow of environmental information in decision-making for the management of energy resources. Bulletin 27 of the LPRP Series examined the role of NEPA and its EIS requirement in relation to the needs of the Navajo Indian Tribe and the Navajo Environmental Protection Commission for environmental information concerning the tradeoffs the Tribe must make between the economic benefits and environmental costs of energy developments.² This Bulletin focuses upon another set of decision-makers--state governments--and their need for improved communication channels for the exchange of environmental information in energy decision-making.

The states in the LPRP study area (Arizona, Colorado, New Mexico, and Utah) (Figure 1) traditionally have played a subordinate role in resource development planning and decision-making. In the area of water resource development, for example, the federal government has often worked directly with local and private development interests, forming a federal-local cooperative system of policy-making in which states have been excluded.³ Their roles eclipsed, the states have had little incentive to develop their own independent planning and information processing capabilities.⁴ Similarly, many important energy decisions--such as the need for more energy, the

best alternative fuels to meet projected demands, and the type and location of generating stations--traditionally have been made by the utilities. The role of the state has been a very narrow one, often limited to the approval or rejection of production sites selected by industry or to the setting of rates charged for service. And it is not surprising that when making those decisions states have been largely dependent upon the utilities to supply and interpret the needed information.⁵ Moreover, authority and responsibility for natural resource management at the state level typically have been scattered among a number of weak administrative agencies with rather specialized functions, and limited staff and funding support. The states have been unable, therefore, to do long-range integrated resource planning or to utilize available planning information to develop coherent and unified state positions on natural resource development issues.

Today, however, the states are making it known that they are no longer content to play a subordinate role in resource development and planning. Concerned that more consideration is being given to industry participation in energy research, policy planning, and coordination than is being given to state participation, the states are making it known that they want to participate during the early stages of decision-making.⁶ They want to seek and obtain the organizational and administrative resources which will enable them to develop their own informational capabilities and consequently to become more viable and effective policy-making participants.

The environmental impact statement is one tool which can be employed by states to help develop the competence to contribute and evaluate environmental information and to exert more leverage in energy decision-making.

Section 102 (2) (C) of NEPA requires federal agencies to prepare a detailed EIS on all major federal actions "significantly affecting the quality of the human environment."⁷ Prior to the preparation of the EIS, the responsible federal agency is directed to consult with other federal agencies which either by expertise or jurisdiction may have environmental impact information. Section 102 also requires that

copies of such statements and the comments and reviews of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and to the public...and shall accompany the proposal through the existing agency review processes.⁸

While scholars who have examined the implementation of NEPA generally acknowledge that its new procedural requirements for the EIS define new opportunities for participation in the generation and assessment of environmental information, they are somewhat more divided over the extent to which these new procedures actually influence the outcomes of federal agency decisions. Some scholars argue, for example, that compliance with NEPA's formal mechanisms can be linked to substantive changes within the agencies' decision-making activities,⁹ and that impact statement review and comment procedures can be used to influence the agencies' social and environmental sensitivities.¹⁰ Researchers in the LPRP Political Science II Subproject, however, are not so optimistic; we have questioned the extent to which EIS practices substantively affect federal agency decision-making. We have argued that while NEPA has created new procedural avenues for participation which political actors can shape

for their own purposes, it has been less successful in forcing federal agencies to reform decision-making or to make more environmentally sensitive decisions.¹¹

This Bulletin describes the organizational structures and procedures states in the Lake Powell study area have implemented in response to NEPA's provisions for state involvement in environmental impact assessment and review, and it assesses whether the states have exploited these opportunities in order to obtain the goal of increased state participation and leverage in energy decision-making. Before we examine and analyze EIS procedures in the Lake Powell states, we present in Part II of the Bulletin a discussion of the principal mechanism, Office of Management and Budget (OMB) Circular A-95,¹² which the federal government has provided to facilitate and coordinate state input into the development and review of NEPA's impact statements. Following this background discussion, we then examine more specifically the institutional arrangements for impact statement assessment and review in the states of the Lake Powell study area. Part III focuses upon the three states (Arizona, Colorado, and New Mexico) which do not require an additional state impact statement. It examines the role of the states' A-95 procedures in the EIS process, the level of state participation in the review of energy-related impact statements, and the factors which determine these state patterns. Because only one state, Utah, has established a state equivalent to NEPA which requires the preparation of state environmental assessments and impact statements, special attention is given in Part IV to describing Utah's requirement and the Environmental Coordinating Committee and planning coordination mechanism which oversee the assessment and review process. Part IV

is an evaluation of whether and to what extent Utah's environmental assessment and planning processes have helped make the state a more capable and aggressive participant in energy decision-making. Finally, in Part V, a summary is presented of the responses of the four states to the new communication channels established by NEPA, and it is argued that state utilization of those channels will not necessarily result in more environmentally accountable decisions in the area of energy policy.

II. OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-95: COORDINATING STATE PARTICIPATION IN THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The Circular and Its Environmental Review Functions

NEPA statutorily provides that state governments should have access to the environmental assessment information compiled and organized by federal agencies and the opportunity to make their voices a more important component of federal decision-making that affects state jurisdictions. The Act, however, does not detail precisely how the review process under NEPA should function. Shortly after NEPA's passage, a Presidential executive order gave the Council on Environmental Quality (CEQ), which had been established by Title II of NEPA, the responsibility and authority to develop and issue guidelines that would refine and clarify the actual procedures by which federal agencies would prepare impact statements and circulate them for comment and review.¹³ Since OMB had already developed Circular A-95 as a tool for coordinating state and local evaluation and review of federal

is obliged to forward the comments received through the review process with its proposal, comments are advisory only and cannot veto an application. Part II of the circular, "Direct Federal Involvement," requires federal agencies to notify clearinghouses that may be affected by tentative federal activities "at the earliest practicable stage in project or development planning."¹⁶

When such projects are not in conformity with state or local plans the federal agency is required to justify in writing the reasons for the inconsistency.

A new provision in the January 1976 revision of the circular concerns federal licenses and permits and portends greater involvement of the A-95 process in environmental and energy-related activities. The new section in Part II applies to federal agencies which grant licenses and permits for non-governmental activities that have a significant impact on state and local plans or on the environment. It urges, but does not require, federal agencies to consult with the clearinghouses and to seek their evaluations of those impacts.¹⁷ The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers have already established such regulations as part of their A-95 procedures, actions which indicate that they intend to abide by OMB's urging.¹⁸

To fulfill the A-95 review process under both Parts I and II, clearinghouses may themselves substantively review applications from the standpoint of comprehensive planning objectives, or they may play largely a procedural role coordinating the substantive review of other interested agencies. In any case, clearinghouses are obligated to notify the appropriate state, areawide, and

local environmental agencies about projects that may require an EIS and to ensure that they are given adequate opportunity to comment.¹⁹

Effective utilization of the A-95 review process is therefore a method by which areawide, state, and local agencies can express concern about the environmental impacts of a direct federal or federally assisted project before the actual preparation of a draft EIS. Moreover, comments secured by these "early warning" provisions of the circular "specifically represent the means by which such inputs into the development of the EIS can be achieved."²⁰ Commenting upon the PNRS, for example, Jeff Morgenthaler observes:

The true importance of this aspect of PNRS under Circular A-95 is its timing; clearinghouses will be examining the environmental merits of proposed actions at least thirty to sixty days before a federal agency ever sees the application, and will have an opportunity for critical input regarding the approval or disapproval of the final application from the moment of its submission. This is state and local review and comment on environmental impacts above, beyond, and before that contemplated by NEPA. Early examination of potential impacts allows consideration of alternative actions while those alternatives still remain open, and increases the likelihood of abandonment or alteration of an environmentally damaging project at a stage when little time, money, or energy has been committed to the proposed action.²¹

When issues or problems with an application are noted during review, clearinghouses have the opportunity to arrange conferences in order to discuss issues and negotiate differences. These conferences represent leverage points at which environmental impact information can be presented

and utilized to persuade applicants to modify their applications and avoid the forwarding of negative comments. If the proposal is subsequently submitted to a federal agency, which in turn prepares a draft EIS, the clearinghouses and state, areawide, and local environmental agencies are given another chance to assess the impact information, to evaluate the extent to which their first set of comments were considered during the drafting of the EIS, and, if they desire, to comment anew.

In addition, Circular A-95 requires the federal agencies to notify clearinghouses within seven days of any action taken on an application that the clearinghouses reviewed. If the federal agency approves an application that a clearinghouse had recommended against, the funding agency must provide a written explanation of its action.²² This feedback requirement enables clearinghouses to keep track of the number of federal program activities in their areas. It also gives state and local governments time to adjust their plans if the federal action eventually will adversely affect those plans.

Hence, state governments utilizing the A-95 process have several opportunities to evaluate project proposals and contribute environmental impact information, and to coordinate state activities and plans with those of federal agencies and private interests. As Morgenthauer indicates, environmental impact assessment and review information exchanged by state participants could be a factor in decision-making from the early stages of planning and consideration right through the final decision stages--a marked departure from past patterns of information flow. Yet, such marked shifts have not occurred. As Morgenthauer notes, "the potential of A-95 as a tool of environmental evaluation is immense; its actual effectiveness is at present significantly less."²³

Implementation Difficulties

Several factors have limited the states' full utilization of the circular's potential to coordinate and integrate environmental planning and review information. First, the circular's requirements pertain only to federal agencies and applicants for federal assistance. For state and areawide clearinghouses the circular provides only a federal mechanism that clearinghouses may utilize; few formal constraints are placed on the way clearinghouses choose to use the opportunities presented. The circular, for example, does not mandate the following:

- a. the existence of clearinghouses as such
- b. the organization of clearinghouses
- c. the procedures and techniques by which clearinghouses manage the review process
- d. whether or not clearinghouses even carry out reviews for particular projects or types of projects under programs covered by the Circular.²⁴

Consequently, the capabilities of clearinghouses range "from ground zero to pretty sophisticated outfits."²⁵

In addition, the federal agencies have not always fully complied with the provisions of Circular A-95. They have failed to meet the early notification requirement outlined in Part II, thus hampering state efforts to coordinate federal activities with their own.²⁶ The federal agencies also have not fully complied with the circular's feedback requirement. For example, one study conducted in California found overall that federal agencies provided followup information only 69 percent of the time.²⁷ Finally, OMB's enforcement of federal agency compliance with A-95 has been very loose, operating chiefly on a complaint basis.²⁸

While admitting that agency compliance and adequate oversight are still problems, OMB has, however, recently instituted three new procedures which it believes will help to mitigate these problems.²⁹ First, it has devised a new form, Standard Form 424, which all applicants must use to submit their proposals and which, most importantly, federal agencies must use to report actions taken on reviewed projects. Second, OMB Circular A-95 now also requires all federal agencies to publish their implementing guidelines in the Federal Register. "Publication is intended to secure a greater consistency among such regulations and to increase awareness and understanding of the requirements by Federal personnel administering the programs affected by A-95, by potential applicants, and by the clearinghouses."³⁰ Third, in order to obtain more effective oversight of agency compliance, the new circular has made the federal regional councils (interagency coordinating committees in each of the ten standard administrative regions) responsible for the day-to-day implementation of the circular's requirements. OMB believes that because of their close contact with field personnel, the federal regional councils can more effectively exert peer pressure upon recalcitrant agencies and achieve "compliance by mutual embarrassment."³¹ It is also hoped that the federal regional councils' work will extend beyond handling complaints and lobbying for compliance to include studies and programs designed to increase levels of awareness and understanding about the circular among clearinghouses, applicants, and federal agencies.³² However, federal regional councils historically have had difficulties resolving interagency conflicts and meeting the expectations of OMB.³³ It would thus be overly optimistic to expect these new oversight

procedures to achieve the results OMB envisions, especially in light of the agencies' reluctance to subordinate their own goals and ongoing decision-making patterns to the needs and activities of the regional councils.

Further, some state agencies circumvent the A-95 process by not submitting applications for federal assistance to the requisite clearinghouses.³⁴ The oversight may be intentional or because state and local agencies may be unaware of the A-95 process and how and why it functions.³⁵ In turn, many clearinghouses do an inadequate job of informing state and local environmental agencies about A-95's environmental review opportunities.³⁶ Significantly, considerable confusion exists about the role of clearinghouses in EIS review and particularly about the contribution the circular makes to securing input into the development of an EIS.³⁷

Finally, the resources state and areawide organizations can commit to A-95 review are often limited. Resources may be already overcommitted, or other agency functions may have higher priority. Moreover, the federal government provides no direct support to assist the clearinghouses in financing the costs of implementing the A-95 process. Within OMB, opinions are divided first over whether the federal government ought to fund clearinghouses, and second over who should provide funding if federal financing is furnished.³⁸ In the past many clearinghouses have depended on funding provided through another federal planning program, HUD 701³⁹ (Department of Housing and Urban Development). Yet, because HUD 701 funding is diminishing, the future ability of states to maintain even the current level of clearinghouse activity--let alone to expand and improve the A-95 process in order to maximize its information and coordination potential--is uncertain.

III. NATIONAL ENVIRONMENTAL POLICY ACT REVIEW PROCEDURES IN ARIZONA, COLORADO, AND NEW MEXICO

A-95 Clearinghouse Procedures

Despite difficulties in implementation, Circular A-95 provides plentiful opportunities for state participation in NEPA's review and comment procedures. Yet, because the circular imposes few obligations upon clearinghouses, states are relatively free to decide to what extent and how they utilize A-95 review, depending on the resources they can commit and the priority they place on intergovernmental planning coordination efforts. Hence, the particular procedures developed for administering the review process vary widely among states. For example, in 1972 Gordon Enk surveyed the states' EIS review procedures and found that the responses of the states had "not been uniform, particularly in terms of the establishment of the A-95 Clearinghouse."⁴⁰ Analyzing the effectiveness of the state clearinghouses in fulfilling their A-95 role, Enk derived three categories of functional effectiveness. The categories include the following:

- a. States in which the clearinghouse may be less than completely operational
- b. States in which the clearinghouse was operational despite the fact that in some instances review responsibility was split
- c. States in which the clearinghouse operates effectively; either it is an environmental agency, or it contains an environmental assessment unit, or it delegates review responsibility to an environmental agency with significant administrative or legal status.⁴¹

According to Enk's analysis, fifteen states fell into the first category, sixteen into the second, and nineteen into

the third. Among the Lake Powell states, Colorado was placed in the first category, Arizona in the second, and New Mexico and Utah in the third.⁴²

Since 1972, however, significant changes in state clearinghouse operations have been made in all of the Lake Powell states. Colorado has totally revamped its impact statement procedures and the clearinghouse role in review. Although its progress has been more limited, Arizona has also attempted to enlarge the coordination role of its clearinghouse in EIS review. While New Mexico's review system has continued to operate effectively according to Enk's categorization, it dropped a state EIS requirement that had never been fully implemented. On the other hand, Utah has adopted a state EIS requirement and has expanded the operation of the environmental assessment unit within its clearinghouse. (Utah's EIS requirement will be discussed in Part IV.)

Prior to 1976, the Colorado clearinghouse played the most limited role of the four Lake Powell states. When Enk conducted his study, the state clearinghouse, located within the Planning Division of the Department of Local Affairs, distributed impact statements to state agencies which in turn returned their comments directly to federal agencies; neither the clearinghouse nor any separate environmental assessment unit collected or consolidated the comments.⁴³ While staff representatives sometimes held meetings to discuss an EIS, there was no attempt to develop a state response.⁴⁴ Governor Richard Lamm's administration, however, grew increasingly dissatisfied with these review procedures; the governor particularly expressed concern about his lack of policy input.⁴⁵ A major "blow-up" over EIS procedures had, for example, occurred when two major natural resource agencies

took different positions on a proposed development. By the spring of 1976 EIS procedures in Colorado were described as a "matter of some sensitivity."⁴⁶

Just prior to the emergence of the EIS problem, Governor Lamm established the Planning Coordination Council (PCC), an interagency, cabinet-level planning coordination group, which is designed to help the governor relate the various functional planning programs within state agencies to gubernatorial policy priorities and long-range objectives, and to implement the state's growth development policy. The PCC, the first planning coordination mechanism to be established in the state, meets regularly twice each month and is chaired by the governor's chief aide. A staff director (on loan to the governor's office on a National Science Foundation Intergovernmental Personnel Act grant), three professionals in the clearinghouse unit, and members of individual state agencies provide the staff support for the PCC. Although the clearinghouse still remains part of the Planning Division, staff were reassigned to work for the PCC.⁴⁷

As one of its first activities, the PCC studied the EIS situation and prepared a report which served as the basis for Colorado's new review and comment procedures. Although still evolving, current procedures call for the staff representatives of the PCC member agencies to meet within one week of receiving an impact statement. During that meeting, the contents of the EIS summary statement are studied and a determination is made whether the project should be considered a major state action--a major state action being roughly defined as a project that affects state plans and/or one which interests two or three state agencies. If the statement is classified as a major state action, the statement is forwarded to the PCC for

review, discussion, and possible adoption of a state policy position. Once a state position on a project discussed in an EIS is agreed upon by the PCC and the response carries the imprint of the governor's office, state agencies may not submit dissenting comments to the federal agency.⁴⁸ As of September 1976, only one EIS, concerning coal development in northwestern Colorado, had been referred to the PCC for consideration.⁴⁹

In Arizona, the A-95 clearinghouse, located within the Office of Economic Planning and Development (OEPAD), manages EIS review. Part of the governor's office, OEPAD is the chief comprehensive planning and planning coordination agency at the state level. Upon receipt of a draft impact statement, the clearinghouse sends copies to members of the Planning and Coordinating Committee--an inter-agency committee composed of the administrative heads of approximately twenty state agencies--which is charged by executive order to assist and advise the clearinghouse in fulfilling its A-95 role.⁵⁰ Each recipient of the EIS subsequently handles review according to internal agency practices. The clearinghouse collects the comments and then forwards them to the appropriate federal agency. No state summary or composite state response is submitted.⁵¹ Impact statement comments submitted from Arizona therefore reflect individual state agency interests rather than any developed, coordinated state response.

There is, however, according to the clearinghouse supervisor, an interest in expanding the coordinating role of the Arizona clearinghouse. It is hoped that when an EIS is controversial, a meeting can be called to discuss differences. The meetings will not be limited to members of the Planning and Coordinating Committee, but rather, depending on the issue, individuals representing

both private and public interests may be invited. The meetings will not be viewed as an attempt to negotiate differences or derive a state position, but as an informational service for the governor, who, if he desires, may issue a statement outlining the state's position.⁵² A recent meeting held to discuss the EIS on a Central Arizona Project-related facility, the Orme Dam, will serve as a prototype for future meetings. As a result of that meeting, the clearinghouse supervisor prepared a summary sheet for the governor indicating the various arguments that were set forth during the meeting. The governor, however, did not develop any state position on the Orme Dam EIS.⁵³ Nevertheless, the clearinghouse supervisor believes that meetings, such as the one held on Orme Dam, can provide the governor with useful policy information and ought to be more frequently convened.⁵⁴ Noting that the clearinghouse is the only state organization which has the information which can provide a comprehensive overview of intergovernmental activities in the state, the supervisor believes it should play a more important role in coordinating state and federal activity and providing a forum for discussion of interagency conflicts.

When Enk made his 1972 study, New Mexico had a state equivalent to NEPA; however, no state environmental impact statements were ever written.⁵⁵ The A-95 clearinghouse, located within the State Planning Office, delegated substantive review of impact statements prepared by federal agencies to the Environmental Improvement Agency (EIA).⁵⁶ When New Mexico repealed its environmental policy legislation and state EIS requirement, substantive review responsibility for federal agency impact statements was transferred to another division within the State Planning Office, the Division of Natural Resources.

Under the present system, the Division of Clearinghouse Coordination in the State Planning Office forwards an EIS to the Division of Natural Resources, which is responsible for coordinating substantive review on resource-related A-95 proposals and on all environmental impact statements. The division draws upon the expertise of its six professional staff members when it assesses an impact statement and drafts its comments. The division also ensures that other interested state agencies have an opportunity to review the EIS. The state water engineer, for example, is particularly concerned with projects which may affect water rights or water law. And the Environmental Improvement Agency, which remains in existence despite the repeal of New Mexico's environmental policy act and a change in the agency's basic enabling legislation, scrutinizes projects that affect matters over which it has regulatory jurisdiction. If the EIS is non-controversial, the procedures followed are similar to those in Arizona. The division director simply staples agency comments together and sends them under cover letter to the federal agency which drafted the statement. However, if major conflicts between agencies seem evident, meetings may be held. The purpose of the meetings is to try to obtain compromises so that a response to the EIS can be agreed upon. The nature of the project, the particular configuration of public and private interests expressing concern, and the degree of public controversy surrounding the project determines the particular review procedures used. If, after the meetings are held, it still appears that agreement is unlikely, the division drafts a response which explains the major points of disagreement. In any case, state agencies may submit comments separately.⁵⁷ Moreover, the response

drafted in the State Planning Office carries little weight as the state's official policy position since, according to one observer, the governor does not use the planning office as a vehicle to formulate and express his policy positions.⁵⁸

NEPA procedures do not require state clearinghouses to coordinate a state response to an environmental impact statement. However, drafting a state response or an official gubernatorial position on a project described in an EIS does give a clear sign to federal agencies and developers about state support for or objections to a proposed project. Because it presents a united, solidified front, the state is likely to exert more influence in the decision-making process. Divergent and conflicting comments from a variety of state agencies, each making its own interpretation of state goals, are, on the other hand, likely to carry less weight, and to have less influence.

While the governor in Colorado reorganized the state's clearinghouse and EIS procedures to allow environmental information to flow upward for chief executive action in coordinating a unified state position, neither the governor in Arizona nor the governor in New Mexico has used these procedures to formulate state policy positions. In Arizona, meetings of the Arizona Planning and Coordination Committee are infrequent. Rather than serving as a forum for information exchange, conflict resolution, and program integration, the function of the committee in relation to the clearinghouse predominantly has been to facilitate the flow of paperwork. Experience in New Mexico shows that the governor chooses not to utilize the planning office as a source of policy advice on the environmental impacts of proposed energy

projects. Thus, while all of the states have established new organizational structures and relationships in response to A-95 and NEPA procedures for state participation in review of federal agency decision-making, not all of the states are using these new mechanisms as effectively as they could. Yet, unless clearinghouse and NEPA review are effectively used by governors and state agency personnel to develop coordinated and coherent state positions on important natural resource and environmental questions, these new structures will serve largely as paper shufflers to facilitate the flow of paperwork associated with A-95 and EIS review. The states will forfeit opportunities to participate and exert substantive influence in decision-making.

Factors Affecting State Participation in Environmental Impact Statement Review

Energy production systems in the Lake Powell study area have many regional characteristics and dimensions. Production areas, fuel supply and transportation areas, and marketing areas may all cut across state lines. The environmental effects, such as air and water pollution, of a proposed powerplant may be felt far from the border of a particular licensing state. The demand for power may come from another state and the fuel supply from yet another state.⁵⁹ Energy projects in the Lake Powell area thus call for regional environmental assessments and multi-state review in order to ensure that all impacts are investigated and all affected interests are given a chance to contribute and receive environmental assessment information. Yet, states often fail to comment on EIS concerning projects in other states.

For example, before it was abandoned by the sponsoring utilities, the proposed 3000-megawatt Kaiparowits powerplant in southern Utah was the largest and most controversial of several coal-fired generating stations planned for the Lake Powell region. Whether or not to construct and operate the plant and its related facilities was a question of national significance. It most certainly had special ramifications for the growth patterns and the physical and cultural environments of all the Lake Powell states. Yet, only the States of Arizona, Utah, Nevada, and California, which would have been directly impacted by the plant or related transmission lines, are listed among the states consulted by the Department of the Interior's Bureau of Land Management during the preparation of the EIS.⁶⁰ Hearings on the draft EIS were also limited to locations within those states. It was, for instance, at the September 1975 hearing in Salt Lake City that the Governor of Utah issued the official state position in favor of the project.⁶¹ No comments from either New Mexico or Colorado are contained in the final EIS. The written comments from Arizona are varied. Lengthy (nine pages) comments from the Arizona Game and Fish Commission stated that the commission could not support the Kaiparowits project, while the comments from the Oil and Gas Conservation Commission noted that since the proposed program would not affect its plans and projects, it supported the proposal. Comments from other Arizona agencies, such as the Planning Division of the Office of Economic Planning and Development and the Arizona Power Authority, simply indicated that they chose not to make any substantive comments.⁶²

Another example of the failure of states to comment upon impact statements on projects in other states concerns the EIS on the Western Gasification Company (WESCO) coal gasification projects.⁶³ The proposed projects, to be located in the New Mexico portion of the Navajo Indian Reservation near the common boundaries of the Lake Powell states, will produce synthetic natural gas from Reservation coal supplies. In addition to Navajo tribal representatives, the Department of the Interior's Bureau of Reclamation consulted with several New Mexico agencies during the preparation of the draft EIS. The following New Mexico state agencies submitted written comments: Bureau of Mines and Mineral Resources, Department of Game and Fish, State Planning Office, State Engineer's Office, and the Environmental Improvement Agency. While agencies in both Arizona and Colorado had opportunities to comment, only one substantive comment was submitted from each state.⁶⁴

Several factors explain why state clearinghouses and state agencies do not participate in EIS review and comment. First, comments simply cannot be prepared on every multi-volumed EIS discussing energy projects in the region. Decisions must be made about the relative importance of each statement. In determining which statements to focus upon, states are likely to choose controversial projects which are located within their own state boundaries and which may directly affect state plans or jurisdictional interests.

Second, most impact statements focus on single projects or components of projects. They tend to ignore the cumulative effects of several different types of facilities; they do not encourage a regional perspective. Because so many impact statements are restricted to an

analysis of site-specific impacts, and the analytic parameters are so narrow and limited, states may not feel compelled to comment.

Program EIS, as opposed to project EIS, are more conducive to multi-state participation in statement formulation and review. Program impact statements address the impacts of a chain of contemplated projects or the impacts of several individual projects in a given geographical area.⁶⁵ The member governors of the Western Governors' Regional Energy Policy Office (WGREPO) have, for example, supported the preparation of a program EIS on proposed coal developments in the Northern Great Plains and have called attention to their desire to participate in the development of any comprehensive regional plan. Thus, the WGREPO governors appear to support the kind of regional environmental assessments that program impact statements can provide. Yet, their support is not without considerable qualification. Many questions still surround the scope and timing of program impact statements, and the governors are concerned that litigation on such procedural issues may cause unnecessary delays in the development of their states' energy resources.⁶⁶

A third factor affects whether states comment on impact statements. A state may not be aware that an EIS is available for review. Federal agencies do not always forward to clearinghouses all the impact statements states would like to receive; federal agencies may be unaware that neighboring states have an interest in such statements and wish to be involved in the review process. Neither the representative from the New Mexico State Planning Office nor the New Mexico EIA, for example, could recall ever seeing the EIS on the proposed Kaiparowits powerplant.⁶⁷ In addition, many federal agencies have

poor reputations in regard to making their statements available and allowing commentators sufficient time to prepare comments.

Fourth, and as mentioned earlier, states are limited in the organizational resources they can commit to EIS review. The clearinghouse in Arizona has only one professional staff person, while Colorado has three and New Mexico has six professional staff persons in their clearinghouses. And EIS review is only one clearinghouse function. Many state agencies are also understaffed, underfinanced, and overworked. Some agencies, especially those with development missions, are likely to have few environmental assessment units. Because these agencies have their resources totally committed to ongoing, established duties and projects, they will be reluctant to reassign resources in order to develop environmental assessment units which may function to challenge agency goals and activities. Thus, lack of adequate organizational resources is a barrier that limits full state utilization of the opportunities NEPA provides; it can also be viewed as an indication of the low priority attached to such activities.

New development agencies whose organizational capacities are not already committed might be better able to incorporate environmental assessment functions into their duties. Even so, these agencies may be slow to develop and place high priority on such functions. The newly created (July 1975) New Mexico Energy Resources Board (ERB) provides a case in point. During its first months of operation the board appeared to give little recognition to the environmental factors associated with resource development.⁶⁸ In April 1976, however, an ERB staff

representative noted that EIS review and comment would be an important function of the agency. She added that the board had plans to create an environmental assessment unit and hire an environmental planner, but that it had been difficult to recruit an environmental planner since many were hesitant to work for a resource development board.⁶⁹ Meanwhile, the administrator of the ERB made an agreement with the Environmental Improvement Agency to use its environmental expertise.⁷⁰ Yet, by November 1976 the ERB had still not established its environmental assessment unit.⁷¹

Agencies with environmental protection missions are best equipped to perform EIS review and comment functions. Often private consultants and federal agencies seek their advice and ask them to contribute data during the drafting of an EIS. The New Mexico EIA and the Arizona Game and Fish Commission are two examples of agencies which devote considerable agency resources to impact statement activities. The five-year-old EIA has 250 staff members in five divisions, and a total budget of \$4,864,565 to call upon when it evaluates an EIS.⁷² The Arizona Game and Fish Commission circulates impact statements discussing wildlife habitats to the eight divisions within its central office and to its six regional offices. Comments submitted by these agency components are then synthesized by the three-person staff in the Planning and Evaluation Branch of the Wildlife Planning and Development Division. Moreover, according to internal agency rules, the Planning and Evaluation Branch also prepares environmental assessments whenever the agency itself is making an application for federal funds. Nonetheless, in performing its environmental assessment duties, the agency does not have time, staff, or budget to do original research; it

must rely on secondary data.⁷³ Its organizational resources are limited, and it must also prioritize agency activities.

Fifth and related to the above, the attitudes of state administrative agencies and staff toward the goals and objectives of NEPA and its EIS requirement are likely to affect the level of participation in NEPA's review processes. When contacted by the LPRP, for example, a representative of the Arizona Department of Mineral Resources was particularly hostile to NEPA. He indicated that NEPA's EIS requirement made his agency spend many non-budgeted dollars and recommended that it be eliminated.⁷⁴ While not all agencies with missions for resource development express attitudes antagonistic to NEPA, it is not surprising to find that agencies with missions for environmental protection consistently express more favorable attitudes toward NEPA and are likely to be more frequent participants in EIS review and comment.

Attitudes within particular states toward the impact statement as a source of useful environmental information are also likely to affect participation in NEPA's review processes. Agencies which find EIS information of benefit to them will probably read and review draft impact statements. While noting that many impact statements "aren't worth the paper they are printed on," the energy analyst in the New Mexico EIA did assert that impact statements on energy projects planned by large utilities were usually well done. He cited the statements on the proposed coal gasification projects as examples, since they provided, he said, "good textbook discussions on the environmental impacts of coal gasification."⁷⁵ The chief of the Bureau of Air Quality Control of the Arizona Department of Health stated that "we feel positively that

the final and draft environmental statements provide useful, sometimes invaluable, information about energy-related projects."⁷⁶

Finally, perceptions of the impact that NEPA's procedures have on decision-making are likely to influence state review patterns. State entities will review impact statements when they perceive that review can make a difference in federal agency decision-making. And state personnel do cite instances in which their comments on a draft EIS prompted a federal agency to cancel or modify significantly a proposed project. The Arizona air quality chief also noted that EIS review and comment by his agency may affect the decision-making of the project's sponsors.⁷⁷ Since the state must grant certain air- and water-quality permits and other approvals before a project can proceed, project sponsors will modify their projects in response to state agency input in order to avoid negative agency actions at a later stage of project development. Hence, many state agency personnel believe that EIS comment and review are efficacious activities for exerting leverage in the decision-making process.

Nevertheless, many agency personnel also believe that the EIS is used more as a project justification than as a decision-making tool.⁷⁸ A common complaint heard among agency personnel contacted in the Lake Powell area was that often federal agencies only perfunctorily responded to the comments submitted by their agency. It is not surprising therefore that states are unwilling to commit available organizational resources to NEPA processes when they are not totally convinced that their participation actually affects decision-making in the long run.

In sum, while many energy projects invite state participation in the EIS review process, state participation

is constrained by a number of factors. These factors include the degree of controversy surrounding a project on which an EIS is prepared and whether the project is located within state boundaries; the nature of the EIS and whether it is conducive to broad and extensive analysis and regional evaluation; the availability of the EIS; the limited organizational resources that can be committed to review and the priority that review has when measured against the demands of other agency activities; agency attitudes about NEPA's substantive policy goals and objectives; agency attitudes about the impact statement as a source of useful environmental information; and agency perceptions of the impact that participation has upon decision-making. When states do participate in EIS review procedures they often receive useful information and occasionally the comments and information they contribute have an impact upon the decision-making of federal agencies and project sponsors. Nevertheless, the above factors often limit the use of NEPA's procedures as tools to assist the states to exert more leverage and influence in federal agency decision-making.

IV. THE UTAH ENVIRONMENTAL IMPACT STATEMENT REQUIREMENT AND PLANNING COORDINATION

Little NEPAs and State EIS Requirements

Several states have followed the NEPA example and have established environmental policies at the state level. Some states have statutorily created "Little NEPAs" which require the preparation of environmental impact statements on state-funded projects. Other states by executive action have mandated state agencies to prepare impact statements. A few of these state requirements

even necessitate the preparation of an EIS on local governmental actions, or privately funded activities that require a governmental permit. As of April 1975, seventeen states and the Commonwealth of Puerto Rico had adopted state EIS requirements.⁷⁹ For the most part, these state provisions and procedures closely adhere to those of the national Act.⁸⁰

Of the four states studied by the LPRP Political Science II Subproject, only Utah currently has in effect, by executive order, a general requirement for the preparation of impact statements on state-funded projects and an interagency Environmental Coordinating Committee (ECC) to aid in the formulation and review of both federal and state impact statements. Since the ECC is also an important component of the state's intergovernmental planning coordination structure, environmental information developed and scrutinized by the ECC potentially can be transmitted across agencies and levels of government. By integrating a state EIS requirement into the planning coordination structure, Utah has aggressively taken advantage of its environmental assessment and review opportunities. The remainder of this section of the Bulletin describes and analyzes the ECC and the Utah intergovernmental planning coordination structure in relation to their environmental and energy decision-making activities.

The Utah EIS Requirements and the Utah ECC: Structure and Operation

Soon after the effective date of NEPA, the Utah Department of Natural Resources established an environmental review committee to comment upon EIS. The Office of State Planning Coordinator, the A-95 clearinghouse agency, also

prepared separate comments. Questions from federal officials as to which comments they should accept as the state response, and lack of communication and increasing conflict on the state level as to which set of comments reflected the predominant state view, led to a meshing of the two groups' activities. An ad hoc environmental coordination committee within the governor's office was formed. In 1973 efforts were begun to formalize the committee's operation and to broaden its mandate to require state EIS on all state-funded projects which may significantly affect the environment. When all concerned agencies agreed to a draft executive order, which was circulated through the A-95 process for comment, a final draft was sent to Governor Calvin Rampton.⁸¹ He signed the "Executive Order on Environmental Quality" on August 27, 1974.

The "Executive Order on Environmental Quality" enumerates six objectives of environmental policy that are almost identical to those enumerated in NEPA. It also includes an action-forcing provision which spells out how state agencies should go about incorporating the mandates of the environmental policy into their decision-making. For every state action which has the "potential significantly to affect the environment" the appropriate state agency must prepare an EIS. The contents of the Utah EIS are also similar to those outlined in Section 102 (2) (C) of NEPA. The executive order requires all state EIS to be submitted to the "State Clearinghouse for transmittal to the Environmental Coordinating Committee, the Economic and Physical Development Interdepartmental Coordination Group, the Governor, and the public..."⁸²

The ECC is the advisory subcommittee for environmental issues to the Economic and Physical Development Interdepartmental Coordination Group (part of Utah's

planning coordination structure). According to the executive order, representatives from nineteen departments, divisions and bureaus, and "others as appropriate and necessary" are included in the committee membership.⁸³ As of May 1976, the committee had twenty members (Table 1). Significantly, the State Energy Coordinator, lodged in the Department of Natural Resources, is not a member of the committee. The coordinator's main contact with the group is through the Department of Natural Resources representative on the committee.⁸⁴ The committee chairman, according to guidelines for implementing the executive order, is nominated by the ECC members and approved by the Economic and Physical Development Group.⁸⁵ The committee's first chairman was the representative from the Department of Natural Resources. The current chairman is located in the Office of State Planning Coordinator.

In addition to its duties in administering the state environmental review process, the ECC "assists the State Clearinghouse in the review of federal and federally assisted actions subject to the requirements of the National Environmental Policy Act of 1969...and Office of Management and Budget Circular A-95 procedures."⁸⁶ Committee procedures do differ slightly depending upon whether the committee is reviewing a federal action or is acting pursuant to the state environmental policy.

Under the executive order, state agencies must, as soon as a project is anticipated, prepare an environmental assessment, an informational document to inform agency decision-makers whether the proposed action will or will not have a significant environmental impact. The ECC then reviews the environmental assessment and forwards its comments and recommendations to the Economic and Physical Development Group. If it is determined that the proposed

Table 1: Utah Environmental Coordinating
Committee Membership

State Planning Coordinator's Office
Division of Parks and Recreation
Utah Transportation Environmental Council
Division of Oil, Gas, and Mining
Utah Geological and Mineralogical Survey
Forestry and Fire Control
Office of State Science Advisor
Division of Water Resources
Division of Health, Environmental Health
Division of Wildlife Resources
Department of Community Affairs
Real Estate, Business Regulations
Industrial Promotion
Utah Bicentennial Commission
Department of Natural Resources
Utah Department of Transportation
Department of Agriculture
Building Board
Division of State Lands
Division of State History

Source: Environmental Coordinating Committee,
May 1976

action will indeed have a significant impact, the agency will be required to prepare a state EIS. It is during the review of the impact statement that a state project is either approved or disapproved. However, the ECC itself has no power to disapprove of a project; only unanimous approval to proceed with a project requires no higher review. When unanimous approval cannot be obtained within the ECC, the interdepartmental group reviews the majority recommendations of the ECC. If no unanimous approval can be obtained within the interdepartmental group, the final decision to proceed or discontinue a project rests with the governor.⁸⁷ To date, not many committee recommendations have been overturned.⁸⁸

When the Office of State Planning Coordinator receives an NEPA EIS it is transmitted to the ECC. After discussion of the proposal the committee chairman synthesizes the comments offered at the meeting and prepares a composite state response. The composite state response may also point out where disagreements among agencies are present.⁸⁹ No further review under the procedures of the executive order or its implementing guidelines is subsequently required.⁹⁰ However, when an EIS on a particularly controversial project comes before the ECC, the governor may take the policy initiative and prepare a statement outlining the official state position. Such was the case in September 1975 when the governor announced his position in support of the proposed Kaiparowits powerplant.⁹¹

During the two years the ECC has functioned under the executive order, several procedural and organizational problems have emerged. These problems, including time, turnover, point of federal and state agency involvement, followup, and funding, are still being solved.

While attendance at the semi-monthly meetings has been good, the committee's personnel do not have adequate time to devote to committee activities.⁹² Most members have other duties they must fulfill and other demands on their time. Several agencies are also beginning to complain about the staff time that environmental impact assessment and review activities are consuming.⁹³ To help alleviate the time problem, the committee has recently adopted a new procedure. When a proposal is submitted, a subcommittee is formed to review the proposal and make recommendations to the full committee.⁹⁴ This procedure, it is hoped, will make better use of the committee member's interests and expertise.

During the initial stages of operation, membership turnover posed considerable problems for the committee. The first committee chairman resigned during the spring of 1975 to accept another post in the executive branch; it took three to four months to recruit a new chairman.⁹⁵ During the first year of operation, three different representatives served on behalf of the Division of Water Resources.⁹⁶ Rapid turnover means that at any one time many members are simply learning to do the job. It becomes increasingly difficult to achieve and maintain continuity in procedures and decision-making. Such turnover is also an indication that member agencies do not view the committee as a prestigious activity. Recently, however, there have been fewer changes in committee assignments, and the committee chairman believes that members are becoming more aggressive in performing committee duties.⁹⁷

The state agencies have, in general, been good about complying with the requirements of the executive order, although some agencies have at times needed pressuring.

One problem has been to convince agencies to involve the committee in the decision-making process before final agency decisions are reached. Early involvement of the ECC is one way to provide an agency with viewpoints from other agencies and other disciplines. It also enables the committee to discuss alternatives to proposed actions and to suggest mitigating measures for environmentally damaging projects before the agency makes its final decisions. At a March 1975 meeting, however, a representative of the Division of Water Resources stated that he wanted to "alert" the committee to a number of projects that had already been approved by the Board of Water Resources. Noting the advantages of early involvement, the committee chairman suggested that the committee and the board needed to work out problems about the appropriate time for the agency to involve the committee.⁹⁸ Since that time the committee has discussed these problems and refined its procedures. According to the current committee chairman, the committee now functions better in terms of early involvement and is overcoming the reluctance of member agencies to comply fully with its environmental assessment and review procedures.⁹⁹

While the committee initially had difficulties getting the federal agencies to involve the ECC during the early stages of EIS preparation, the recent trend in that regard has also been toward earlier involvement. State and local agencies are increasingly providing data and monitoring the development of impact statements prepared by federal agencies. Considerable state and local involvement, for example, occurred during the drafting of the Kaiparowits EIS.¹⁰⁰ Further, the Bureau of Land Management has been working with the ECC to arrange for state research participation in the preparation of two regional

impact statements on coal development in Utah.¹⁰¹ This increasing level of state participation in EIS formulation has improved committee visibility within federal agencies; it has also helped to solve another committee problem--lack of federal agency followup on state comments.

Finally, committee activities have placed severe financial pressures upon state agency funding. During congressional oversight hearings on NEPA, for example, Governor Rampton noted:

In our environmental coordinating council and its parent body, the economic and physical development committee, we find ourselves less and less 'reviewing' environmental impact statements, and more and more responding to a variety of requests for information and 'input' during the preparation of those federal statements...It is also clear to us at the state level that while NEPA and the required EIS review give us a look at proposed projects and allow comments, it is more satisfactory if our participation--including consideration of environmental impacts, positive and negative--makes us an integral part of whatever decisions lead to the proposed action in the first place...Unfortunately, our only source for help for both review and development comes from existing state agency personnel rosters and budgets. The effort is creating an overload situation in which we cannot both fill our responsibilities to ongoing state or federal programs and keep up additional EIS duties... Although I am reasonably happy with our progress, I do not believe that we as a state can afford to continue in this direction without additional federal support. Of course I am talking about money.¹⁰²

Rampton recommended that the federal government offer funding beyond the limited HUD 701 monies to states and localities to help alleviate the financial burdens of EIS activity.¹⁰³ Moving in this direction, the Office of State

There have been, and no doubt will continue to be, difficulties with both the ECC and the planning coordination system. There are uncertainties over whether the new governor will support the continued existence and level of activity of the ECC and the planning office, and whether decision-makers will actually give environmental quality the same consideration in decision-making that economic and technical factors have traditionally received. NEPA's decision-making requirement for the environmental impact statement and state equivalents to NEPA are tools that can be used by decision-making participants with developmental as well as environmental goals in mind. The traditional economic development interests, such as the private utility companies, have very effectively used the new communication linkages opened by NEPA to further their own policy objectives.¹²² States and state agencies whose attitudes and policy priorities consistently place economic development over environmental quality can, just as the private interests have done, maximize the opportunities that EIS assessment and review opportunities present in order to further their goals of economic development.

Creation of the ECC and the state EIS requirement indicates that environmental impacts of proposed energy projects may now receive more attention in decision-making than they did previously. Indeed, there is little doubt that Utah, by creating its own set of state EIS processes, has procedurally altered the flow of environmental information in energy decision-making. Nevertheless, whether Utah's procedures will in effect serve to maintain and enhance environmental quality will depend in large measure on how consistently developmental values take precedence over environmental values when environmental assessments and final decisions are made.

V. SUMMARY AND CONCLUSIONS

The National Environmental Policy Act outlines a new set of formal decision-making requirements for federal agencies. These procedures require decision-makers in federal agencies to consult with and obtain the views of state and local agencies and the public when they make important resource development decisions. New procedural channels of communication have thus opened for states that in the past have often been excluded from many decisions in the energy arena. In addition, the NEPA review process has been linked to Office of Management and Budget Circular A-95, perhaps the single most important tool of intergovernmental coordination in existence today. Circular A-95 and its system of state and areawide clearinghouses have increased the possibilities for states to become involved in NEPA's review processes during both the formulation and review of environmental impact statements. Further, the circular's "early warning" provisions have given states opportunities to contribute environmental impact information before NEPA's impact statement processes are brought into play. While implementation difficulties at both the state and federal levels have limited the full realization of the circular's potential, the circular nevertheless provides additional channels of communication and opportunities for states that want to exert more leverage in natural resource decision-making. The central question this Bulletin has addressed is whether the Lake Powell states have exploited these opportunities to increase state participation and leverage in energy decision-making.

In response to the federal initiatives for state involvement in the review of federal agency decision-making, all of the Lake Powell states have established new organizational structures and procedures for environmental impact

assessment and review. Improvements in state clearinghouses to facilitate coordination of impact statement review have been made in all states. In each state clearinghouses are located within the principal planning coordination agency, and interagency groups occasionally meet to discuss impact statements on controversial projects. Utah has even established by executive order a special review committee that meets on a regular basis, and whose principal responsibility is to coordinate and administer environmental assessment and impact statement review activities. Environmental impact statement preparation and review procedures established in Arizona, Colorado, New Mexico, and Utah have therefore altered the flow of environmental information in energy decision-making; states are gradually becoming more frequent and active participants in energy decision-making that affects state interests.

Yet, what actual substantive impact has such increased state participation had on decision-making? Do states actually exert more leverage and influence? In regard to these questions, the evaluation is considerably more mixed. State officials do cite instances in which their participation in EIS preparation and review prompted federal agencies or private developers to cancel or significantly modify a proposed project. Thus viewed, states have exerted influence in the decision process causing federal agencies and developers to alter their decisions during the planning stage in order to make them more environmentally acceptable.

Yet, not all of the states are using clearinghouse A-95 and EIS mechanisms as effectively as they could. A crucial factor appears to be whether governors and agency staff perceive and use these mechanisms as tools to develop

and coordinate coherent and unified state positions on the environmental impacts of proposed energy projects, or mainly as steps which expedite the flow of paperwork associated with federal grants and EIS review. State utilization of EIS review as a strategy for increasing state leverage and influence in federal agency decision-making is also constrained by a number of factors including the organizational and decision-making resources that can be committed, the inherent weaknesses of the EIS as an information and decision document, and state attitudes toward, and perception of, the efficacy of state involvement in NEPA's review systems.

Moreover, as the LPRP Political Science II Subproject has previously argued, compliance with NEPA's procedural decision-making requirements does not necessarily result in substantive implementation of NEPA's policy goals and objectives. Participation in NEPA's impact statement procedures often occurs too late in the decision-making process to change significantly agency plans; state officials frequently complain that the EIS is used more as a project justification than as a decision-making tool. Hence, states, and especially those that place environmental quality over energy development, will still have difficulties being listened to. Information conveyed by states is likely to affect decision-making substantially only when and if federal agency decision-makers want it to.

Further, as the Utah experience illustrates, EIS requirements are tools that can be used by developers as well as environmental interests. States whose attitudes and policy priorities consistently place economic over environmental values may therefore utilize environmental policies and impact statement processes in order to

advance their goals of economic development. Utah has responded most aggressively to NEPA's review responsibilities and opportunities, committing itself to playing not only an active role in impact statement review but in statement preparation. The governor has established and supported a state equivalent to NEPA and an intergovernmental planning coordination structure to oversee and coordinate the environmental assessment and review process. Yet, it cannot be concluded that Utah is the most environmentally sensitive of the Lake Powell states. Instead, there is considerable evidence that Utah's impact assessment and planning coordination processes function predominantly to coalesce support for the state's developmental policies. Thus, NEPA and NEPA equivalents can also be used quite effectively by development-oriented states to exert more influence in energy decision-making without substantially changing the number of decisions that significantly degrade the environment.

The states in the Lake Powell study area have expressed interest in protecting their cultural and physical environments. But they are also anxious to see the development of the region's energy resources. While participation in NEPA-related environmental assessment and review activities can enable the states to progress toward their goal of becoming more active partners in decision-making, there is no assurance that increased state participation and use of NEPA's formal decision-making provisions will actually result in fewer environmentally damaging decisions.

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THE AUTHOR

Hanna J. Cortner is a Senior Investigator in the Political Science II Subproject of the Lake Powell Research Project. The subject of this subproject is "Environmental Impact Statements in Energy Decision-Making in the Lake Powell Region."

Dr. Cortner is presently a Research Associate in the School of Renewable Natural Resources at the University of Arizona. Her research activities focus on natural resource policy issues and particularly on problems of land use, energy, and water in Arizona and the Southwest.



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