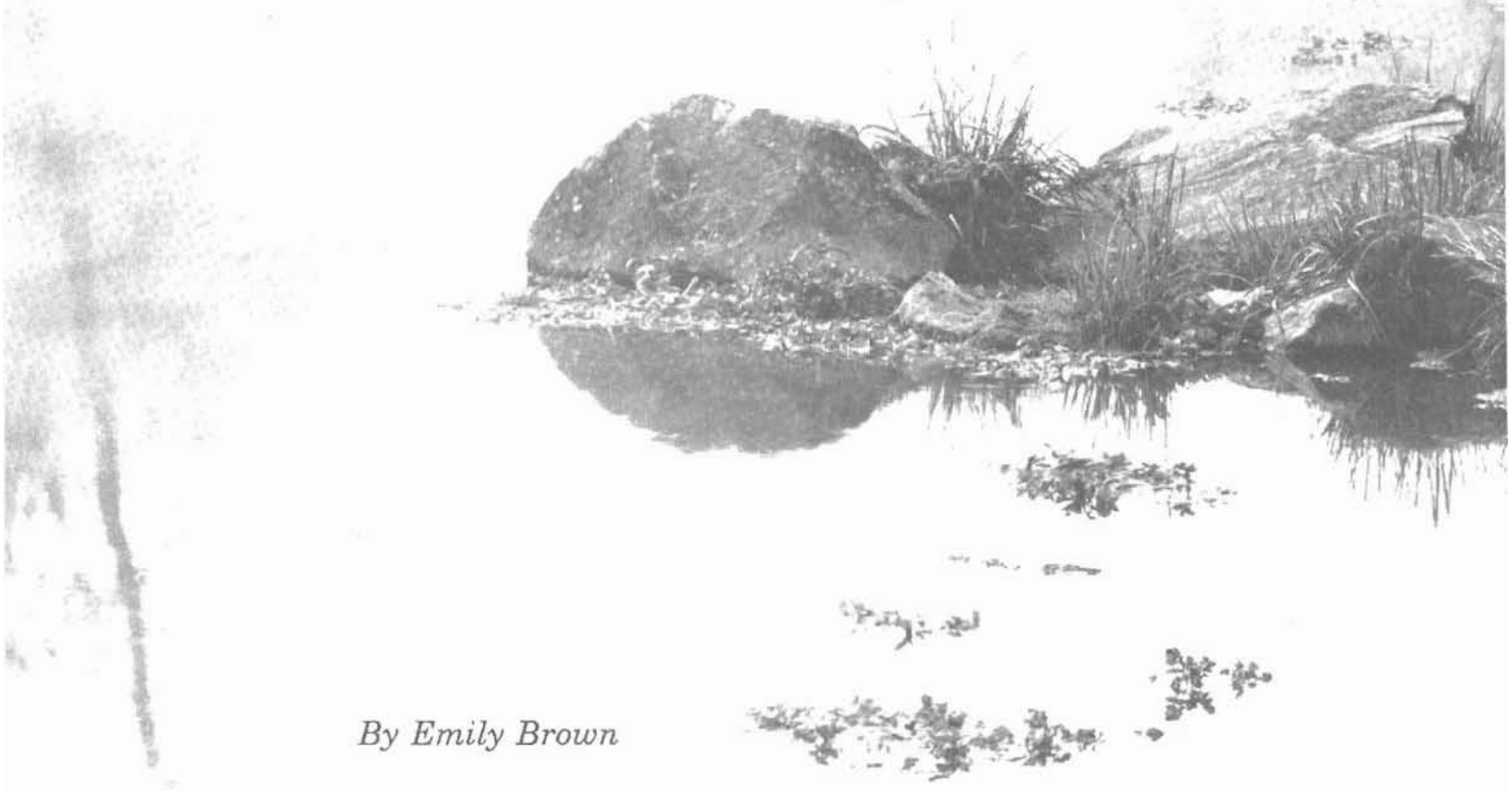
The Value of NEPA



By Emily Brown

"We have committed the Army to being a national leader in environmental and natural resource stewardship for present and future generations, and we intend to do that as an integral part of our Army mission."

Michael P.W. Stone,
Secretary of the Army

Army commanders constantly search for ways to improve methods of operation—especially in these days of downsizing. Consolidation and site relocation, used frequently in this effort, can be enhanced by incorporating requirements of the National Environmental Protection Act (NEPA) early in the planning and development phases of a project. NEPA establishes a mechanism for incorporating environmental considerations into the decision-making process and objectively evaluating them along with traditional engineering, technical, and financial considerations. In addition, the NEPA process can help planners anticipate problems early enough to minimize their effects or avoid them altogether. Although complex, NEPA is an important and mandatory part of any planning process involving land usage. This article explains the NEPA process and offers some solutions to common problems. The case study on page 36 is a typical example of the NEPA process.

Overview

During the 1960s and the 1970s, the U.S. began to emphasize environmental quality. Environmental legislation was developed and implemented to protect such resources as air and water, endangered species, and our cultural heritage. NEPA was enacted by President Nixon on January 1, 1970. In drafting the act, Congress said the federal government should "use all practicable means . . . to create and maintain conditions in which man and nature can exist in productive harmony." NEPA applies to all actions on lands partly or completely federally owned and to actions that are partly or completely federally funded. Other countries have developed similar requirements that may apply to operations or installations outside the continental United States.

The NEPA process is a planning tool that enables planners to select the most suitable alternative for an action. It describes the full scope and magnitude of a proposed action's effects (both positive and negative) on economic, environmental, and social concerns. The process and documentation are intended to achieve a balance between the merits of a proposal and associated environmental effects and the need for mitigating those effects.

Under NEPA, proponents must consider the effects of a proposal on all alternatives, including the "no action" alternative. Additionally, an interdisciplinary team must prepare the assessment. This team, which usually consists of planners, scientists, engineers, and technicians, assesses the environmental effects of a proposal quantitatively, qualitatively, and in coordination with the public and the environmental regulatory community.

The process begins when a proponent identifies a requirement for either training or mission support. All projects, from major construction to renovations and minor modifications, undergo a cursory planning review to determine their constraints and benefits, such as mission suitability, safety, economics, environmental, and land-use compatibility. Proposals are managed in several ways. At Fort Leonard Wood (FLW), all such proposals are presented to the Installation Planning Board, which includes the environmental coordinator. A working committee composed of the action proponent, environmental staff, and other installation officials is then assigned to work through the NEPA process.

After viable alternatives are developed, the working group compares and screens all factors for the alternatives in detail. A weighted decision matrix is prepared for each alternative using generalized categories: commander's intent (project purpose), plus safety, environmental, and economic concerns. Depending on the scope of the proposal, additional factors such as travel time or distance to the site are incorporated in the matrix. The decision matrix depicts the general screening categories. Technical specialists then develop the factors and issues within each generalized category and present them to the working group. The working group presents their findings and recommendations to the Installation Planning Board (IPB) for concurrence.

As a member of the IPB, the Staff Judge Advocate ensures that all legal requirements are met. The SJA provides valuable support and guidance throughout the process and recommends approval or disapproval of NEPA documents.

Upon concurrence by the board, recommendations are forwarded to the installation commander for final approval, incorporation into the installation master plan, and implementation. This mechanism affords technical experts in various disciplines an opportunity to provide input into the early development of a proposal. It ensures that viable alternatives are reviewed and the most suitable alternative is recommended.

The Process

The NEPA process is documented for use by decisionmakers and consists of five steps:

Step 1. Develop a detailed description of the project and its purpose. Planners must acquire this information before they can complete any other step. They must understand the scope of the proposed project before determining potential environmental impacts.

Step 2. Describe the existing conditions of each site under consideration. The components of this description, collectively called "environmental," include economic, cultural, physical, and biological conditions. This description is used to establish a baseline to compare each alternative against.

Documentation for steps 1 and 2 is often prepared simultaneously. During this phase, the project description may be in draft form. Preparing a detailed project description while obtaining the information to describe the existing conditions gives the proponent more time to reassess the purpose of, need for, and scope of the proposal. Lack of a thorough evaluation often leads to numerous changes and delays in both action implementation and completion of the NEPA process.

Step 3. Assess or predict the environmental effects of the action on each alternative. This step provides the analytical basis for comparing alternatives. Potential environmental effects must first be identified and then described as to their extent, magnitude, and significance. Determining the significance can be difficult. While quantitative measurements are used where possible to determine the significance of an effect, qualitative professional judgments are sometimes necessary. Significant effects may be controversial, involve sensitive or unique resources (such as endangered species, historic structures, or floodplains), involve unknown risks, have a cumulative effect, or threaten to violate federal, state, or local environmental laws.

In addition, the sensitivity of the environmental resource affects the threshold at which an impact is considered significant. For instance, sensitive resources such as endangered species or wetlands may be significantly affected by "normal" or "minor" actions such as tree or vegetation removal. This part of the document is often complicated, and impact matrices are normally included to help reviewers visualize and sort through the magnitude and significance of the impacts.

Step 4. Select the preferred alternative based on available information. This step is the essence of a NEPA document. Selection is made by comparing the analytical data for each alternative documented in the previous step, including the "no action" alternative. The comparative discussion describes the issues and concerns from which the decisionmaker can select an alternative.

Generally, the proponent identifies a preferred action either before initiating the proposal or early in the planning process. The initial preference may not be the same as the one identified from the analytical data presented in the environmental document, but the proponent is provided with an alternative that meets the project's purpose and intent. The selected alternative is often more suitable than the proponent's original preference.

Step 5. Prepare the appropriate NEPA environmental document. NEPA documents chronicle the planning and decisionmaking processes presented in steps 1 through 4. They form a record of the proposal and evaluations of the beneficial and detrimental environmental consequences of the alternatives. These documents are formal records of the proponent's procedural compliance with NEPA.

Documents

The NEPA process ends in acceptance of one of three documents: a Record of Environmental Consideration (REC), an Environmental Assessment (EA), or an Environmental Impact Statement (EIS).

Record of Environmental Consideration

An REC, the briefest document, is intended to minimize paperwork and agency coordination delays. To determine if REC is appropriate, action proponents and installation environmental specialists must first review the screening criteria to decide whether the proposed action meets the criteria for one of the Department of Army's 29 excluded categories. These categorical exclusions (CXs) are routine, very limited in scope, and have been predetermined not to significantly affect the environment.

Under NEPA, each federal agency, in coordination with the U.S. Environmental Protection Agency, is allowed to identify CXs for their agency actions. If an action meets the screening criteria, the proponent prepares a one-page REC that substantiates the decision to categorically exclude the action. The REC should contain a brief description of the proposed action, rationale for categorically excluding the action, and a list of key source documents or contacts.

RECs are reviewed, approved, and signed by the installation environmental coordinator. This approval ends the NEPA process, and the proposed action may then proceed. Both the proponent and the installation environmental coordinator usually retain copies of the REC. No public notification or involvement is required at this level of the NEPA process.

Environmental Assessment

When an action does not meet the criteria for a

CX, the proponent, in conjunction with installation environmental specialists, begins an environmental assessment. This abbreviated document is generally a precursor to an environmental impact statement. It is usually prepared as part of the screening process to determine the extent and significance of environmental effects. An EA always concludes with either a Finding of No Significant Impact (FNSI) or a Notice of Intent (NOI) to prepare an EIS. If the EA process identifies and documents that no significant environmental resources will be impacted, an FNSI is prepared and made available to the public for a 30-day review and comment period. At the end of that time, the NEPA process is complete and the proposed action can begin. When the EA identifies and documents significant or potentially significant environmental impacts, a Notice of Intent to prepare an EIS is filed in the Federal Register and the detailed EIS process begins. Public involvement, such as meetings or newspaper articles describing the action and soliciting public input, is encouraged but not required during the EA process.

Document Preparation

Document	Cost	Duration
REC	$2,000 to $3,000	1 week
EA	$25,000	6 to 8 months
EIS	$75,000 to $500,000	12 to 18 months

Cost and duration vary depending on the proposal, its complexity and significance, and the amount of regulatory and public involvement.

Environmental Impact Statement

An EIS is prepared when significant impacts are suspected or known. The degree of significance increases the technical detail of an EIS. This process requires extensive coordination with regulatory agencies and the public and can take years to complete. The level of public and agency coordination is considerably greater for an EIS than for an EA. For example, public meetings are encouraged during the preparation of an EA but are required during the EIS process. Cost and preparation time for an EIS are much greater than for an EA or an REC (see chart). To expedite the process, installations frequently hire contractors who specialize in NEPA documentation to prepare EAs and EISs.

When an EIS is complete, the public is given 45 days to comment on it. Then, the proponent prepares and files a Record of Decision (ROD) in the Federal Register. The ROD summarizes the decision process to ensure that all practical means for minimizing harm to the environment were considered and that monitoring and enforcement actions were included where applicable. After publication of the ROD, the NEPA process is finished and the proposed action may commence.

Problems and Corrective Actions

Environmental specialists or personnel tasked with preparing NEPA documents frequently encounter similar problems. Two common ones are lack of early staff involvement and staff shortages.

Lack of early staff involvement

Problem: Until recently, many installation staff members viewed the NEPA process as a paperwork exercise with little or no value beyond completing a legal requirement so funding could be requested. After civilian employees at several installations were criminally indicted and convicted of violating environmental laws, attitudes began to change.

Discussion: If the NEPA process is not initiated early enough, installation planners fail to develop alternate sites or address the positive and negative components of all alternatives. This prevents planners from making the most informed decision possible.

Corrective Actions: Planners must become more familiar with the benefits and use of the Geographic Resource Analysis Support System (GRASS) computer program. The GRASS program is operated and maintained by installation environmental and natural resources offices, but it is available Army-wide for use by *all* installation planners. This sophisticated planning aid can assist planners in identifying resource opportunities or restrictions early in the process instead of during or just before an action is implemented.

Staff Shortages

Problem: Frequent personnel changes promote a cycle of persistent refamiliarization with the benefits and legal requirements of NEPA. In addition, many environmental and natural resources offices are understaffed. Insufficient staff restricts the number of documents that can be initiated, prepared, and reviewed in-house. It also restricts the time available

for coordinating with military and civilian planners and informing them about NEPA requirements.

Discussion: Compounded by dwindling budgets and overall military downsizing, these problems are difficult to overcome. Proponents and planners unaware of NEPA requirements often propose and plan actions that have not been environmentally assessed. This can lead to additional problems: NEPA may be overlooked completely, placing the installation in violation of federal law; the action may be delayed because there is insufficient time to conduct an assessment, prepare the document, and coordinate with the public; or funding to support the action may be delayed. As environmental legislation escalates and initiatives such as commercial activities contracts are implemented or Directorates of Public Works are established, increases in staff may not keep pace with requirements.

Corrective actions: Several options are available:

- Establish permanent positions for an installation planner and a military training planner who are less mobile (civilians or soldiers in long-term military tours). Requirements should include familiarity with NEPA and/or environmental awareness training with periodic refresher courses. This option provides both short- and long-term benefits.
- Establish a primary point of contact who is familiar with planning requirements and the value of NEPA. This option will ensure consistency during the planning process. On FLW, the installation master planner is established as a permanent civilian position, and soldiers in the training division assume the military training area planning duties.
- Develop environmental awareness training for all planners. The training being incorporated into military training now will partly remedy the problem, but comparable training for civilian planners is recommended.
- Contract out NEPA document preparation through agencies such as the U.S. Army Corps of Engineers (COE). This is a successful and viable solution. However, proponents must be aware that documents prepared through contract may be more costly and take longer to complete. On FLW, RECs and minor EAs are generally prepared in-house by environmental and natural resources specialists who work closely with the proponent. More complex EAs and EISs are prepared through contracts administered by the Kansas City District, COE.

Summary

The NEPA process is here to stay. Soldiers and civilians who plan land usage must incorporate NEPA in all land use plans. The process ensures that environmental concerns are considered along with financial, engineering, and technical aspects. NEPA enables installations to be proactive rather than reactive by anticipating problems and mitigating or avoiding them. It also incorporates the Army's environmental strategy into the 21st century, promotes environmental stewardship, and fosters positive public and environmental regulatory community relations. Most important in today's cost-saving environment, NEPA provides commanders with a tool for effectively and efficiently improving methods of operation.

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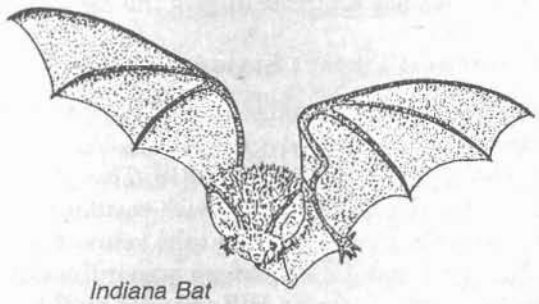
Photograph by Jim Anderson.



Indiana Bat

Case Study - NEPA in Action

The FLW Installation Training Area Master Planning Board (ITAMPB) received a proposal to relocate several small-arms range complexes. The ITAMPB initially proposed that relocations to former "existing" ranges would be the most cost effective, easiest to implement, and have minimal environmental impacts. The ranges were used before 1970 and before implementation of most environmental laws, and no previous NEPA documents were available for review.

Through compliance with the Endangered Species Act, which is part of the NEPA process, the installation identified a cave occupied by a federally endangered species, the Indiana Bat. The cave was near one of the proposed range relocation sites for the infiltration range. Close coordination between the ITAMPB, the Directorate of Engineering and Housing-Environmental Division

(DEH-ED), and the Directorate of Plans, Training, and Mobilization-Training Division (DPTM-TD) identified this sensitive resource as a potential significant impact early in the planning phase of the action. Because of the potential for significant impact, environmental specialists determined that the proposed action could not qualify for a categorical exclusion and that an environmental assessment would probably conclude with a Notice of Intent. Therefore, an environmental impact statement would probably be required. Because the cave posed an important range siting concern, DEH-ED and DPTM-TD invited the U.S. Fish and Wildlife Service (FWS) to observe an actual infiltration operation and to visit the cave. The intent was to familiarize the FWS with the scope of military operations and potential or lack of potential for environmental impacts and to identify the concerns and requirements of the FWS. This coordination effort was invaluable. The primary concern of the FWS was the nighttime portion of the operation and its potential disturbance to the feeding and foraging of the bat, as well as the possible hindrance of ingress and egress to the cave. The ITAMPB addressed these concerns and followed the Army policy to avoid impacts to sensitive resources when practical alternatives exist.

The FWS determined that it was not appropriate to relocate the infiltration range to the proposed site without additional study concerning the potential impact to the Indiana Bat. Because the project could not be modified to eliminate nighttime operations, DPTM-TD proposed relocating the range to an alternate site. Proactive planning enabled a potential "show stopper" to be identified early in the planning process. It allowed an alternate course of action to be pursued before project design funds or other resources were committed. As a result, an endangered species was protected, a costly EIS was avoided, and the proposal was documented in an environmental assessment, which concluded with a Finding of No Significant Impact.

This range relocation project is an example of the NEPA process used properly. Early involvement between installation staff components and cooperation and coordination between installation organizations and environmental regulatory agencies enabled planners to select a suitable alternate location for the infiltration course. Efforts by the proponent and numerous installation staff elements to explain and demonstrate military range training to the FWS paid off. The FWS determined that the range near the Indiana Bat cave could accommodate most daytime operations and could be a viable range used compatibly by both the military and the endangered species.

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Three-way switch solution, continued from page 31.