

required under NEPA. NEPA's environmental review process has two major purposes: (1) for agencies to make better informed decisions; and (2) for other interested agencies and citizens alike to have an opportunity to participate and provide input in the review process. Courts have repeatedly interpreted the statute as requiring agencies to grant meaningful and adequate participation to the public by disclosing all non-exempted documentation the agency used and by allowing the public to submit comments in a process that guarantees that the agency will take into account the public's comments.

In light of these obligations, USACE has repeatedly promised that it will take into account all the comments submitted by the people of Puerto Rico. A 30-day period is not enough time to give the people of Puerto Rico a meaningful opportunity to read, analyze, evaluate and then comment on this 110-page long Draft EA for this highly complex and controversial project. Moreover, the USACE has overlooked the fundamental fact that Puerto Rico is a Spanish-speaking nation and the Draft EA, a highly technical document, and other key documents are written in the English language. If affected and concerned citizens are not able to read the key documents under review, their participation will not be meaningful and adequate as the statute requires.

Through NEPA, Congress ordered the Council on Environmental Quality (CEQ) to issue regulations governing federal agency implementation of the NEPA environmental review process. These CEQ regulations are binding on all federal agencies. Section 1506.6 of the CEQ regulations, regarding public involvement, states that agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

1. . . .

2. . . .

3. In the case of an action with effects primarily of local concern the notice may include:

(i) . . .

(ii) . . .

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) . . .

(c) . . .

(d) Solicit appropriate information from the public.

(e) . . .

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public . . . [emphasis added]

When a Federal provision requires "diligent efforts to involve the public", to "inform those persons [. . .] who may be interested or affected", and to "solicit appropriate information from the public" in a Spanish-speaking nation like Puerto Rico, regarding a project so controversial and of such a scope and magnitude as Va Verde, the only way to comply with the provision is by providing the information in the common language spoken. Likewise, in the case of an action with effects primarily of local concern, as in the case of Va Verde, section 1506.6 (b)(3)(iii) orders the agency to follow "the affected State's public notice procedures for comparable actions" which for Puerto Rico would be a draft EA in the Spanish language.

CEQ regulations offer additional reinforcement in order to guarantee an adequate public participation. For instance, section 1502.8

of the CEQ guidelines state that "[e]nvironmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them" [emphasis added]. Courts have interpreted this "plain language" provision as to require Federal agencies to provide the public with comprehensive information regarding environmental consequences of a proposed action and to do so in a readily understandable manner. See *Klamath-Siskiyou Wildlands Center v. Bureau of Land Management*, 387 F.3d 989 (2004), "While the conclusions of agency expert are entitled to deference, National Environmental Policy Act (NEPA) documents are inadequate if they contain only narratives of expert opinions, and the documents are unacceptable if they are indecipherable to the public"; *Earth Island Institute v. U.S. Forest Service*, C.A.9 (Cal.), 442 F.3d 1147 (2006), *certiorari denied* 127 S.Ct. 1829, 549 U.S. 1278, 167 L.Ed.2d 318 (emphasis added), "A final environmental impact statement (FEIS) must be organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under the FEIS" [emphasis added]; *Oregon Environmental Council v. Kunzman* 817 F.2d 484 (1987), "Readability requirement of Council on Environmental Quality regulation mandates that environmental impact statement be organized and written so as to be readily understandable by governmental decision makers and by interested nonprofessional laypersons likely to be affected by actions taken under the environmental impact statement" [. . .] "Upon review of environmental impact statement, parties may introduce evidence concerning reading level of affected public and expert testimony concerning indicia of inherent readability. National Environmental Policy Act of 1969, §102, 42 U.S.C.A. §4332; 5 U.S.C.A. §706(2)(A, D)" [emphasis added]. See also *National Resources Defense Council, Inc. v. United States Nuclear Regulatory Comm'n*, 685 F.2d 459, 487 n. 149 (D.C.Cir.1982); *Baltimore Gas & Elec. Co. v. NRDC*, 462 U.S. 87 (1983); and *Warm Springs Dam Task Force v. Gribble*, 78 F.Supp. 240, 252 (N.D.Cal.1974), *aff.*, 621 F.2d 1017 (9th Cir.1980). These requirements for EISs apply equally to EAs, as indicated in the CEQ regulations' use of the term "environmental documents" rather than EISs alone.

In the case of Puerto Rico, a Draft EA that is highly technical and written in the English language is "undecipherable" and not "readily understandable" in order to be properly assessed and commented by lay persons whom in their wide majority are not fluent in the English language.

ATTORNEY GENERAL ERIC HOLDER MUST RESIGN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. BOUSTANY) for 5 minutes.

Mr. BOUSTANY. Mr. Speaker, U.S. Attorney General Eric Holder must resign immediately. After months of evading tough questions and giving unclear answers about Operation Fast and Furious, it now appears the Justice Department's top official has contradicted his own testimony given before Congress.

Under Operation Fast and Furious, the Bureau of Tobacco, Alcohol, and Firearms allowed "straw" purchasers to buy at least 1,400 weapons, despite the fact it knew that these weapons

would likely end up in the hands of violent Mexican drug cartels. The ATF lost track of the guns after they were sold to criminals. Since then, many have been used in hundreds of crimes on both sides of the border, including the murders of a Border Patrol agent in Arizona and an immigration officer at the U.S. embassy in Mexico City.

Why did the Attorney General allow for the transfer of guns across the border without working in conjunction with Mexican authorities when he knew the ATF was unable to trace them? That's a very important question that must be answered. This botched program should never have been authorized in the first place. Attorney General Holder should resign over his failure and his evasive and contradictory testimony to the United States Congress.

THE REINS ACT AND MINE SAFETY

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. GEORGE MILLER) for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, later today, the House will consider the REINS Act, which is legislation designed to make sure that in a Republican-controlled Congress, no new regulations would be put into effect, whether they deal with clean drinking water, clean air, child safety, the safety of children when they play with their toys, the drugs that so many citizens need to take to maintain their health, or occupational safety at the workplace. All of that would be destroyed under the REINS Act.

You might ask yourself what would society look like? Well, we had a preview of what that society looks like yesterday when the Mine Safety and Health Administration released its report on the Upper Big Branch mine. What that society looked like to these miners and to their families was 29 dead coal miners, because the Massey Corporation was basically allowed by its board of directors to evade the basic regulations that were in place to protect the miners.

Although the miners don't have whistleblower protections, we saw that Massey was able to intimidate the workers every day not to report safety violations, not to write up safety violations, not to report things that needed to be repaired, because the chairman of the board told them the priority was the production of coal, not the safety of the workers.

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Produce the coal or get out is what he told them. So they were not able to participate in their own safety when they saw a violation or they saw a problem that caused danger in the mine.

They also were able to circumvent the right of the mine safety inspections