

Interactive Ethics

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The Situation: Duck and Cover

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Not long ago I was attending a well known international conference of professional practitioners similar to our own membership. There were courses offered that were very similar to those offered at our annual conference. One of these had to do with training those who practice in the realm of the National Environmental Policy Act (NEPA).

In the hallway, I overheard the main speaker and trainer very seriously explaining to a young novice that "it is the primary responsibility of each NEPA practitioner to write reports that house the environmental impacts in language that they will not be found to be significant and not trigger a full EIS."

I wrote it down verbatim. For our challenge, I decided that it would be most appropriate to put this single statement in front of real NEPA practitioners and see what you had to say.

The Response

The "NEPA Practitioner" quote elicited the greatest number of responses since I began writing this column, not one of which expressed surprise at the comment. Several did however express disgust. One referred to the individual as a "gutless worm partially responsible for the downfall of this great nation."

Thankfully, several respondents also tried to explain how such a statement might be made—a sort of post facto rationalization. Don't confuse this with an excuse. These were just some reasons that may have contributed to the comment being made. One respondent quoted Lynton Caldwell's testimony to the U.S. House of Representatives, "few statutes of the United States are intrinsically more important and less understood than is the National Environmental Policy Act of 1969." Another points out that the

process very nearly requires that the practitioner experiences a conflict of interest between the client agency and the NEPA requirements. Perhaps the most salient point was that practitioners may tend to lose sight of the philosophy of the act. Focusing on the process as a "hurdle" instead of a means of minimizing long term impacts of proposed activities will arouse the competitive nature of the practitioner. The challenge is to beat the act when it should be to creatively and jointly protect the environment and the economy.

The issue raises a fundamental question about what our jobs are. Along one logical sequence of thoughts, we can recognize an argument that the job is to protect the client from unnecessary responses to regulations. That seems to be the closest context in which I can understand the quote. Another perspective might be that the job is to give the client the scientific truth and then help them to deal with that truth. If we hide the truth, the plans will not respond to its existence and these plans will fail, for the truth will not change simply because we do not acknowledge it.

The ethical ramifications are obvious including the need to avoid conflicts of interest and to avoid deceit and misrepresentation. A partial solution is to avoid any contractual guarantee, explicit or implicit, that the NEPA study will produce one result or another. The desire for repeat business can get in the way of this concept even if the above advice is followed. As one gentleman put it, "word gets around," about who is willing to sell their opinion and who is not. That too is a part of the problem. Word does get around and the market may select those more willing to follow the advice of the errant trainer. It may be up to the others to react strongly and proactively to eliminate the problem.

I have no answers here. I will leave that to the NEPA working group, for it is apparent that this is a significant challenge to the efficacy of the Act itself.

A New Situation: Where Will This Road Lead Us?

Your best client comes to you one day and says he has a truck outside. It is filled with

barrels containing a mixture of heterocyclic compounds containing sulfur and nitrogen. Paraffinic and aromatic hydrocarbons as well as Carbene were also detected in the barrels. It even has two carcinogens, Anthracene and Pyrene, and it is all mixed into a sludge of Bituminous tars. He wants you to get rid of it for him.

You are not a hazardous materials transporter or arranger, but he is one of your very best clients and you would really like to help him out of this predicament. He's standing in front of you holding out the keys to the truck. You need to decide right now.

What do you do?

Send your comments to Tom Cuba, Delta Seven Inc., PO Box 3241, St. Petersburg, FL 33731; (fax) 727-550-2513; (e-mail) Delta-Seven@worldnet.att.net. Watch for the response in a future issue of Environmental Practice.