

Telling a NEPA Story

by Larry Freeman, PhD

The Shipley Group, *Senior Consultant*

Twice recently, I have been asked to highlight “telling the story” as a basic skill for NEPA writers.

The first was when a Forest Service regional manager asked the Shipley Group to develop a workshop session on “telling the story” for NEPA writers. The second was when the Federal Highway Administration (FHWA) asked us to develop a session for their NEPA writers. A core principle for the FHWA session was telling the NEPA story behind each project.

Both agency representatives said that their NEPA writers often failed to record a down-to-earth story of how and why the agency was proposing a current project. Agency legal counsels have also said that judges often fail to find an understandable logic trail supporting an agency’s decisions. NEPA writers seem to be unwilling to tell their NEPA stories. Or, perhaps, many writers with technical expertise see a simple story as just that—too simple. Whatever the reasons, NEPA writers need to see that a telling a simple story is a sound writing strategy.

(The conceptual basis for the FHWA session is “Improving the Quality of Environmental Documents,” a May 2006 report from the American Association of State Highway and Transportation Officials (AASHTO). This AASHTO report was prepared in cooperation with the Federal Highway Administration. A core principle in the AASHTO report is telling the NEPA story behind each project.)

What features of the storyteller’s craft would be useful for NEPA writers? Some of the basic ones are the following suggestions:

- 1. Adjusting to a listener’s or a reader’s key concerns and questions**
- 2. Providing clear explanations for conclusions and related actions**
- 3. Linking steps and decisions in an understandable logic trail**
- 4. Emphasizing relevant steps and decisions and downplaying less important details**
- 5. Creating for the agency a reasonable and credible image or role, as reflected in its NEPA documents**

The following text discusses each of these suggestions. The text for each suggestion begins with observations about the traditional storyteller’s art. Then I apply these observations to the writing of complex National Environmental Policy Act (NEPA) documents.

1. Adjusting to a listener’s or a reader’s key concerns and questions

Storytellers were originally oral performers. Participating listeners were, and still are, essential to a storyteller’s craft. A storyteller who fails to notice that listeners have lost the narrative thread doesn’t last long as a storyteller. Similarly, a storyteller who is not willing to adjust to the listeners’ requests for key information fails.

A successful NEPA storyteller always has to adjust the content of NEPA documents. Such adjustments range from minor clarifications of technical terms or to global decisions about how best to profile technical complexities about possible environmental impacts. Effective NEPA writers should routinely ask questions such as these:

1. What are my readers’ main concerns or worries about our proposed project?

2. How do these concerns link to the potential action or actions the agency is proposing?
3. How can I explain projected impacts so that readers can readily grasp their importance?
4. What technical terms or concepts need down-to-earth, understandable explanations?
5. What indicator or indicators will effectively forecast relevant impacts so that readers can understand them?
6. How can I arrange or organize my information so that readers are 100 percent clear as to what I am concluding?

Notice that the preceding questions focus on the readability of the information, not on technical concepts. Technical resource concepts should never be the starting point in a NEPA document. If they are, readers are going to be confused as to the writers' conclusions about potential effects.

Instead, NEPA resource specialists should begin with the goal of being highly readable. Shipley Group consultants recommend that writers be 100 percent clear in whatever information they provide. This goal is not realistically attainable, but the best NEPA writing approaches 100 percent clarity. The goal of 100 percent is the basis for Shipley training materials.

2. Providing clear explanations for conclusions and related actions

An effective storyteller always keeps listeners/readers posted as to what is happening. If the audience in a movie doesn't see why action **y** follows action **x**, they will have lost the narrative thread. They may not walk out immediately, but too many confusing or jumbled scenes will usually doom the movie.

Similarly, a written NEPA analysis that is unsupported or unrelated to common sense is doomed. Such a discussion likely fails in an initial reading, and it will surely fail if the plaintiff or the courts take a close look at unsupported facts and poorly explained conclusions.

The most arrogant statement about a NEPA conclusion is "Trust me, this conclusion is my professional judgment." Yet, I still meet participants in Shipley training sessions who want to open a technical conclusion with the phrase "My professional judgment is" Readers have been skeptical for decades about agency documents. They believe, often with good reasons, that agency information is colored by political considerations. At heart, NEPA was designed to address this problem because its legal mandate is for agencies to disclose all potential impacts to all interested parties. The actual legal test is whether an agency has taken a "hard look" at impacts and is disclosing the discovered impacts with full "good faith." The burden, then, is on an agency to present information about its conclusions and its decisions. So agency writers should not retreat to thin or unsupported assertions about professional judgment.

Whenever a NEPA writer records a professional opinion, the writer should support the opinion by the following chain of evidence:

1. What resource facts are clear and true about the project area? How credible are such "facts"?
2. What resource studies and associated methodologies led to the facts as recorded in the NEPA documents (field reports, technical surveys, or laboratory results--as in lab analyses of soil or water)?
3. How well did the associated methodologies match the features of the project area and of the resources being studied?

4. If resource studies are missing or are limited in value, what studies would the agency like to have to be more confident in its findings? Can the agency provide or obtain such studies within reasonable technical limitations and within current budgets? (Note: These questions parallel similar guidance from Section 1502.22 of the CEQ Regulations, which tells agencies how to handle incomplete and unavailable information.)
5. Does the agency have clear and supportive monitoring data for its resource “facts” and any associated conclusions? Where are such data recorded and analyzed? How valid are these data?

Writers should translate the five preceding questions into key sections of their impact discussions. I would propose, for example, that key phrases such as the following should appear in any impact analysis that adequately tells a credible story about resource conclusions and their supporting information. Here are some possible key phrases:

- Baseline surveys of the project began with Smithson’s studies in the 1920’s. Smithson’s surveys cover only the western side of the project area and are limited because . . .
- Smithson’s conclusions are only partially accurate, given more recent studies. For example, Smithson assumed . . .
- Studies of long-throated salamander habitat focus on projected summer water temperatures. Hiding or escape areas (overhanging banks and sheltering vegetation) are also important. These habitat features are indirect indications of salamanders being present because . . . [*Because* is the key word. Every resource conclusion needs a following *because*!]
- Ongoing studies of the long-throated salamander will hopefully show . . . These conclusions will be helpful, but they will still leave some questions unanswered. Such questions include . . .
- Agency monitoring of the long-throated salamander has been uneven and sketchy, primarily because of uncertain annual funding. Personnel losses in the last decade have decreased monitoring activities. Monitoring from 19XX through 19XX shows that . . .

Writers need to convince readers that they are honest and fair reporters of the information. Such credibility grows when writers, as in the preceding illustrative quotations, frame the information in an honest way. Writers should be especially careful to note when information gaps exist and when methodologies are less than perfect.

As I note in question 4 above, Section 1502.22 of the CEQ Regulations essentially mandates that agencies do a careful job discussing the adequacy of their resource information. Only occasionally do I see resource specialists consciously addressing the adequacy of their information. Instead, I see citations such as the following one:

Long-throated salamanders have decreased by 33 percent in the project area since the monitoring survey in 1998 (Green and Simmons 2003, pp. 233-237).

Does the Green and Simmons report deal with the actual monitoring survey or with the methodology? Would readers expect to see the 33 percent figure in the Green and Simmons report? As with many parenthetical citations, the linkage of the cited study to preceding information is unclear. A better version of such cited information would be the following:

In 1998 biologists Green and Simmons monitored long-throated salamander populations in the project area and published their findings in a 2003 report. Their report (pp. 233-237) included a useful methodology for calculating population densities based on habitat features. This formula, when applied

to monitored conditions in 2006, shows a habitat decline of as much as 33 percent (Bureau of Land Management, Salamander Monitoring Report 2006, pp. 4-5).

3. Linking steps and decisions in an understandable logic trail.

A skillful oral storyteller routinely links narrative facts so that listeners always know where the story has been and where it is going.

In written language, such linkages are also important. Readers expect one sentence to link to the next. Predictability means that the reader of one sentence knows what the next sentence is likely to say. Such redundancy from sentence to sentence is basic to understandable text. Without redundancy, text is difficult to read and major content conclusions are impossible to remember.

Reread the preceding paragraph; it illustrates such written linkages. Each sentence in the paragraph repeats a word or key phrase from the preceding sentence. So each new sentence presents a bit of old information before revealing new information. This predictable chain of information tells readers what each successive sentence will say.

Similarly, a skeptical reader, perhaps a plaintiff or a judge, needs assurance that an agency writer has control of the relevant project details. Why is the agency proposing a project? What are project givens or prohibitions? Answers to such questions are essential if a skeptical reader is to be convinced that the agency is relying on a clear logic trail. So writers need to build in supporting information as a validation that the agency does indeed know where it is heading and why it is heading there.

One of the most obvious places where a NEPA document builds in links to subsequent information is in issue profiles (usually included in Chapter 1 of an EIS or EA). Consider the following text from a Forest Service issue statement:

Issue: There are differing opinions about how the Forest's vegetation should be best managed. Comments range from a desire for vegetation goals that would emphasize an older-aged late seral forest to those emphasizing more early seral conditions. Components of this issue include the amount and distribution of aspen and jack pine, old growth, late seral species and determining the ecological conditions needed for species viability.

The preceding text, from a 2005 Forest Service EIS, shows how even short pieces of text can be difficult to read and to interpret. What, from a lay perspective, does a seral forest have to do with the vegetation issue? And how many components of the issue would you list based on the last sentence? The unclear text in this sentence and its misleading punctuation make components difficult to determine. Readers will finish reading the paragraph without a clear well-defined list of topics to track throughout later pages in the EIS.

Here is one possible rewrite of that original text:

Forest Vegetation Issue: Sylvan National Forest (SNF) managers need to decide what trees to retain (and protect), what trees to harvest, and what trees to replant. Such decisions affect the future conditions within the SNF, especially the following: (1) the average age of trees in decades to come, (2) changing percentages of jack pine and aspen—the two major species of trees on the SNF, (3) changing habitat conditions for birds and mammals, and (4) SNF's changing visual appearance.

Some contributors to the SNF NEPA process want to see an aging forest, with many older and larger trees and with few visible signs of forest management actions. Other contributors want to see an actively managed forest with many stands of young trees and with an aggressive program of tree

harvesting. Still others are more concerned with the local economic effects of the volume of SNF timber harvested. Later discussions in this EIS cover all of these competing viewpoints (as reprinted and summarized in Appendix X). Based on this NEPA process, SNF managers will set goals and objectives for managing vegetation in future years.

The rewritten passage lists four clear, numbered features for readers to track throughout the rest of the EIS. Such linkages are crucial to any storyteller's art. Also, readers, especially lay readers, are likely to understand the message behind the rewritten text, which abandons any mention of a "seral forest." Again, this is surely a goal for any good storyteller and for good writers..

Yes, the rewritten text is somewhat longer than the original paragraph. But its length has to be balanced against its overall clarity and its linkages to later information in the EIS. (By way of disclosure, I chose not to identify the source for the original quotation. In the rewritten passage, I have given Forest a fictitious name.)

4. Emphasizing relevant steps and decisions and downplaying less important details.

Scoping, a key NEPA process step, should provide exactly this sort of information about what readers expect. An adequate scoping effort solicits from readers their key concerns and any related questions.

Such concerns and questions are called NEPA issues (to use terminology from the Council on Environmental Quality (CEQ) Regulations). Agencies are mandated to ask any and all interested parties to list any "issues" they may have with a proposed federal action. Parties contacted include other federal, state, local agencies, Native American tribes, individual citizens, or groups of citizens. The CEQ Regulations (Section 1501.7(a)1) even suggest that agencies solicit comments from "those who might not be in accord with the action."

Agencies are also mandated in Section 1501.7(a)2 to "identify and eliminate from detailed study . . . issues" that are not key ones for the agency and its decision maker to address.

Agencies NEPA documents should address a reader's concerns and questions in two ways at least:

1. Agencies should list in an EIS or EA, preferably in Chapter 1, issues that have been retained as key or relevant issues. This list, derived from a careful scoping process, should be as clear and as honest as possible. Note the emphasis on an honest and fair presentation of the issue. Readers should believe that the issue profiles have fairly presented competing viewpoints.

(In instances of complex scoping efforts, agencies should record very carefully how each commenting person's comment has been interpreted and then analyzed in the resulting NEPA document. This tracking process is now a formal and accepted step in any legally adequate NEPA process.)

Note: See the sample issue descriptions under suggestion 3. A good issue description in Chapter 1 should frame key points for tracking throughout all subsequent chapters in the EIS and even in the resulting decision document (Record of Decision).

2. Individual writers contributing to a NEPA document should also address the readers' concerns or questions as they write individual sections. Suppose, for example, that a member of the public says that a specific research study is relevant to the environmental conditions in the project area. NEPA writers should track down this study and then discuss it in an EIS or EA. Or, optionally, backup documents should record why the text for an EIS or EA is not addressing a recommended study.

Again, see the rewritten sample of an issue statement above under suggestion 3. The rewritten version profiles the various competing viewpoints. Such profiles are necessarily summaries of much more detailed analyses of comments (usually recorded in an Appendix or in backup files). The profiles should be an honest and fair

summary of the comments. Remember, however, that comments are not votes, so the summary in an issue profile does not record the number of comments on each side of an issue.

5. Creating for the agency a reasonable and credible image or role, as reflected in its NEPA documents.

A good storyteller allows listeners to suspend their disbelief (or natural skepticism about an event's possibility). Listeners believe in the reality of what they are hearing. The storyteller sounds truthful.

In NEPA terms, readers should believe that the writers of an EIS or EA are reasonable and credible people. This is the image or role that all of the agency's NEPA documents should create. So NEPA writers should do everything they can to convince a reader that they are just down-to-earth, ordinary folks. And if individual writers are convincing, an agency's major NEPA message—its role in preparing NEPA documents—will also be reasonable and credible.

Good NEPA writers should remember that they should be writing from an “Aw . . . shucks” perspective. This folksy phrase is not common these days, but at one time its use signaled that its speaker was both modest and honest. After this phrase, a speaker might deliver a modest conclusion or a clarification of a complex fact.

Perhaps a NEPA writer should visualize standing in a dusty field talking to a local farmer or a visiting environmentalist. They could be discussing soil, vegetation, or cows. At an appropriate point, the writer might use the “Aw . . . shucks” strategy. Visualize a folksy Jimmy Stewart saying, “Aw . . . shucks” to settlers and then explaining how he managed to rescue the heroine from the runaway buckboard. Stewart's verbal approach was famous for his modest and homespun tone.

Writers should strive to create their own “Aw . . . shucks” tone. If they do, they will be unconsciously reverting to storytelling strategies (such as those already discussed in this newsletter article). From my experience, NEPA writers can skillfully tell someone what they are trying to say in written text. Their oral version is always clearer and more convincing than their written version. The trick, then, is for writers to get the same simple clarity into their written text.

Here are some suggestions for achieving an “Aw . . . shucks” tone in traditionally stuffy NEPA content:

1. Challenge each technical concept and associated terminology. What would be simpler and more down-to-earth ways to explain these concepts and terms?
2. Focus content points on stories (studies or reports) that validate key facts and associated conclusions. Most listeners/readers find anecdotes convincing. For example, recounting the background of a research study leads directly to comments about the study's credibility and its applicability to current problems or issues. Citations, then, are opportunities to discuss the power and relevance of the cited information, not citations purely for the sake of citations.
3. Encourage readers to contribute to the analysis, both by submitting information during the NEPA process and by following the logical flow of written information in an EIS or EA. Here is where writing principles 2, 3, and 4 above would apply. Readers need to be led, subtly of course, to see just how reasonable and credible the agency's decisions and the writers' conclusions are.
4. Check your evolving text by reading it aloud. Are you appropriately conversational, even folksy? Can you get your tongue around a lengthy sentence or a technical phrase? If your tongue gets twisted, rework the text. Make the words as simple as possible and the sentences shorter than they ordinarily would be.

5. Ask a friend or colleague to review draft text from the perspective of its readability. Ask a reviewer to answer one or both of the following questions. Would an average lay person or students in the 7th grade understand the concepts? Would they find the technical concepts and agency conclusions reasonable?

Notice the emphasis on review, both by the writer and by a friend or colleague. No writer ever has the eyes or ears for discovering when the text is likely to stump a lay reader. So writers of quality documents should always make time for early and frequent reviews. The more eyes and ears checking a document, the less likely will be inconsistencies and obvious errors.

Ending the Story

The classic storyteller's traditional ending was a clincher point, often a surprise. This is where a good NEPA story is inconsistent with the storyteller's traditional approach. NEPA documents must be as close to 100 percent clear as possible. This goal means that writers should open with conclusions and then circle back to explain how they arrived at the conclusions.

This circling back is not chronological, but it is a common storyteller's tactic. After all, flashbacks have become an increasingly popular tactic, both in written stories and in movies. A narrator (or major character) mentions a major point or event and then pauses to explain why it is important or what actually occurred. The narrator or storyteller signals to readers (the audience) what is happening. So as I said earlier, readers are not left to puzzle out that event y follows event x.

Steps in the NEPA logic trail should be as close to 100 percent clear as possible even if flashbacks occur. NEPA documents (or sections) should open with major points because readers see first the opening heading and the initial sentence or sentences, followed by supporting details. Concluding summaries should not reveal new information. If even used, a concluding summary has no surprises for readers. They will have gotten the major points in the opening lines of sections or in Chapters 1 and 2 of an EIS or EA (two chapters that equal the executive summary for the whole EIS or EA).

Readers see the initial lines or opening sections first (in either hard copies or on websites), so these opening lines and sections should contain all major conclusions. This assumption is the basis for Shipley Group training materials, especially our publication *How to Write Quality EISs and EAs*.