NR 567: Analysis of Environmental Impact
COURSE SYLLABUS
Department of Forest and
Rangeland Stewardship
Warner College of Natural Resources

Instructor
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Term: Fall 2018
Class Meeting Days: Wednesday 9-12
Class Location: Rockwell 39
Course Credits: 3

Course Overview
The national governments in the United States and globally are major sponsors of natural resource and economic development projects that have significant impacts on the environment. The National Environmental Policy Act of 1969 mandates that all federally sponsored projects that may significantly impact the quality of the human environment must go through a detailed analysis of those impacts. The NEPA model has been replicated in many state and local policies, and around the world. At the core of NEPA is the analysis of environmental impacts, using certain analytical standards and requirements. The purpose of this class is to examine in detail the purpose, goals, and results of NEPA, and the analytical requirements and standards of environmental impact analysis. The course will incorporate real-world case studies. An underlying theme is understanding US environmental policy processes, with a focus on natural resource management settings.

Course Goals and Objectives
My graduate courses emphasis critical thinking, as you are among the future policy makers and planners of the world. Thus, this course includes opportunities for problem-based learning activities to enhance your ability to apply the concepts of the course rather than simply restate what you have read or heard in class. Your full participation in the course activities, assignments, and readings is not only expected, but essential to your learning process. Most classes will include some lecture, but in many class sessions you will be expected to contribute your reflections on course readings and to share your insights through group discussion, small group work, presentations, and the like. By the end of the course, students will be able to:

- Critically analyze the purposes, goals, and outcomes of the National Environmental Policy Act and its role in federal agency decision-making
- Understand the role of Congress, federal agencies, the public, and the courts in shaping NEPA
- Identify the details of Environmental Assessment and Environmental Impact Statement processes
- Understand and apply analytical and legal standards relating to EIS development
- Develop an appreciation of the role of collaboration, science, and agency expertise in decision-making
- Be able to discuss and analyze a suite of the most important and controversial NEPA issues today
**Course Prerequisites**
There are no prior class prerequisites. As a graduate level course, there are high standards for participation, preparedness, reading materials, analysis, and discussion. Although the course will emphasize the role of the NEPA US natural resource management contexts, students are encouraged to explore international contexts if it assists in advancing thesis work.

**Required Texts and Materials**
There is no textbook. Please refer to Canvas for online readings.

**Important Dates to Remember**
Please refer to calendar.colostate.edu/academic for important add/drop/withdraw deadlines

**Library & Research Help**
The CSU Libraries Help Desk provides research and technical assistance in person at Morgan Library or by phone at 970-491-1841. Virtual assistance is available via the Libraries’ Ask Us chat and email services (http://lib.colostate.edu/help/ask-us). Jocelyn Boice is the librarian for the Forest and Rangeland Stewardship Department and this course. Contact her for assistance at: jocelyn.boice@colostate.edu / 970-491-3882.

**Course Schedule and/or Schedule of Assignments**

<table>
<thead>
<tr>
<th>DATE</th>
<th>READINGS</th>
<th>IN-CLASS ACTIVITIES</th>
<th>ASSIGNMENTS DUE</th>
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<tbody>
<tr>
<td>Aug. 22</td>
<td><strong>Class introduction and NEPA overview</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>-Class overview&lt;br&gt;-NEPA history&lt;br&gt;-Break-out groups on NEPA&lt;br&gt;-Structure of government and types of law</td>
<td>Read Luther prior to class&lt;br&gt;Journal entry #1 due Wednesday 8am</td>
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<td>Aug. 29</td>
<td><strong>Rulemaking and planning in federal land management agencies</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>-Rulemaking and the APA&lt;br&gt;-Discretion and deference&lt;br&gt;-Discuss readings</td>
<td>Journal entry #2 (note from here on out all journal assignments are due at 6pm Tuesday prior to class so I can read them before the session; this one, therefore, is due at 6pm on 8/28)</td>
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<td>Sept. 5</td>
<td><strong>Regulatory Interpretation of NEPA</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>-Overview of EA/EIS process and content&lt;br&gt;-Break out groups on regs&lt;br&gt;-CEQA&lt;br&gt;-Intro to EA analysis</td>
<td>Journal entry #3</td>
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<tr>
<td>Date</td>
<td>Topic</td>
<td>Reading</td>
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<td>Sept. 19</td>
<td>Guest lecture: Forest Service Planner</td>
<td>-Case analysis due for either:&lt;br&gt;  <em>Lands Council v. Powell 379 F.3d 738 (9th Cir. 2004)</em>&lt;br&gt;  <em>Ecology Center v. Austin, 430 F.3d 1057 (9th Cir. 2005)</em>&lt;br&gt;  <em>Inland Empire Public Lands Council v. USFS 88 F.3d 754 (9th Cir. 1996).</em>&lt;br&gt;  <em>Idaho Sporting Congress v. Rittenhouse 305 F.3d 957 (9th Cir. 2002)</em>&lt;br&gt;</td>
<td>-Discussion of case analyses&lt;br&gt;-Guest Lecture</td>
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<td>Sept. 26</td>
<td>Scientific Uncertainty and NEPA</td>
<td><em>Sierra Club v. Marita 46 F. 3d. 606 (7th Cir. 1995)</em>&lt;br&gt;  <em>Lands Council v. McNair 537 F.3d 981 (9th Cir. 2008) (en banc)</em>&lt;br&gt;  <em>Schultz, C. 2008. Responding to scientific uncertainty in U.S. forest policy. Environmental Science and Policy 11: 253-271.</em></td>
<td>-Brief lecture on scientific uncertainty&lt;br&gt;-Group discussion on readings</td>
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<td>Oct. 10</td>
<td>In-class work day and introduction to final projects</td>
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<td>Oct. 17</td>
<td>Adaptive Management and NEPA</td>
<td><em>Schultz and Nie, 2012, Decision-Making Triggers, Adaptive Management, and Natural Resources Law and Planning, Natural Resources Journal.</em>&lt;br&gt;  <em>Center for Biological Diversity v. Rumsfeld et al. 198 F. Supp. 2d 1139 (2002)</em></td>
<td>Overview of the design of our triggers work&lt;br&gt;Group discussion</td>
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<td>Date</td>
<td>Topic</td>
<td>Readings TBA</td>
<td>Journal entry #8</td>
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<tr>
<td>Oct. 31</td>
<td><strong>Tribes and NEPA</strong>&lt;br&gt;Readings TBA</td>
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<td>Journal entry #10</td>
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<tr>
<td>Nov. 14</td>
<td><strong>Topic: student choice</strong></td>
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<td>Journal entry #11</td>
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<td>Nov. 28</td>
<td><strong>Guest Speaker: Allison Flint from the Wilderness Society</strong>&lt;br&gt;-DOI Sec. Order 3355 and implementation memo&lt;br&gt;-BLM’s streamlining report&lt;br&gt;-CEQ ANPR&lt;br&gt;-USFS ANPR</td>
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<td>Journal entry #12</td>
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<tr>
<td>Dec. 5</td>
<td><strong>Project Presentations</strong></td>
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<td>Final papers due</td>
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Assignments
NOTE on due dates: Journals are due at 6pm on Tuesday evenings before the class where they are listed as being due. Other assignments must be submitted at the beginning of the class period in which they are due. Turn in all assignments via the Canvas website.

- Journal entries: Two-page journal entries that do the following:
  - Summarize the major themes of the readings
  - Include your critical analysis (what you found new, insightful, helpful, or questionable)
  - Include outstanding questions you have
  - Any comments on application to your own work
  - NOTE: I typically will fail many journal entries in the first couple weeks of class for the following reasons: failure to use paragraphs with topic sentences and that stay on topic; incomplete sentences or other fatal writing flaws; lack of proofreading and editing; failure to conduct a graduate-level summary of the content or provide useful questions/observations

- Discussion leads: for one class, you will work with one other person to lead the discussion for the week. You are required to do the following:
  - Provide a quick oral summary of the readings for the week. You can bring a handout or PowerPoint if you like. This should take 15-20 minutes.
  - Facilitate discussion. Bring to class and circulate overarching discussion points and questions for the week and questions specific to each paper. Be sure you cover major questions/arguments in the reading, new concepts, relationship of the reading to other readings from the semester, and importance of the reading (who cares, what insights or contributions does the reading make?). Discussion questions can include points for clarification, and also should include questions to guide critical thinking, help students synthesize themes, solicit opinions/perspectives, and draw connections with other parts of the course. Both students who lead should facilitate discussion for the entire time you are asked to lead discussion. You may get creative and assign small group or role-play work as you see fit. Please check in with Courtney the week prior to your assigned class to determine how much time you will have.

- Case law analysis: details below
- NEPA EA analysis: details below
- Final paper: 10-15 p. paper on topic of your choice. You will need to write a one-page overview with the objective for your paper and a brief outline of your content and research approach. This must be approved by Courtney. A passing paper will follow the approved outline, be formatted with subheadings and citations for a research paper, and be free of fatal writing flaws.
- Paper presentation: 15-20 min. presentation on your paper topic. The presentation must summarize the work you did for your paper in a compelling fashion like a conference-style presentation. You may not read from notecards. A passing presentation must be visually appealing with pictures and not too many words on slides; the presenter will make eye contact with the audience, be engaging and field questions.

Basis for Final Grade
Evaluation Criteria and Grading
This class will use a system of Acceptable/Unacceptable grading for each assignment, Assignment Bundles, and Tokens for assessment purposes. This system is designed to ensure rigor while providing clear rubrics for the work to be completed in the class. At the same time, it increases student choice and allows you to work toward a target that is reasonable to you in the context of your other obligations. And, rather than have communication be one way without responses, you will have the opportunity to reflect on my comments to you and improve upon your work. In this way, assignments provide opportunities for both assessment and continual learning.

PLEASE NOTE: If assignments are cancelled or if people are gaming the system in some unforeseen manner, then I may need to make changes to this system. If this is required, I will announce proposed changes in a class
session, and we will come to an agreement as a class about changes that are fair and acceptable. Changes will be made only in a 2/3rds majority of all students present in the classroom on the day changes are proposed, and no less than a majority of all enrolled students agree that changes are acceptable and fair. Changes will then be included in this syllabus as tracked changes, and the syllabus will be reposted online.

**Acceptable/Unacceptable Grading**

Each assignment comes with a detailed explanation of what is expected to achieve a passing assessment. It is basically an all or nothing system—you either meet the criteria of the assignment and do quality work, or you don’t. This is a system that encourages quality work without sliding by or betting on partial credit. Instead, you are rewarded for high quality work and held to that standard which is much more akin to the professional world.

**Bundles**

Students will be able to target a desired grade in this class. I have provided 4 bundles of assignments and class engagement here to allow you to see what is expected to reach each target grade. Completing the work in bundle A with passing grades will lead to an A in the class. Completing Bundle B with passing grades will lead to a B, etc.

**Bundle A:**
- Attendance and Participation— You miss no more than two classes and participate in all discussions when you are present
- In-class discussion leading
- Journal entries: You complete ten journal entries
- Case law analysis
- EA analysis
- Final paper
- Presentation

**Bundle B**
- Attendance and Participation— You miss no more than three classes and participate in a majority of discussions when you are present
- In-class discussion leading
- Journal entries: You complete nine journal entries
- Pick two of the following: EA analysis, case law analysis, or final paper presentation
- Final paper

**Bundle C**
- Attendance and Participation— You miss no more than four classes and participate in a majority of discussion when you are present
- In-class discussion leading
- Journal entries: You complete eight journal entries
- EA analysis or case law analysis
- Final paper

**Bundle D:** I am assuming no one will choose this grade; however, you can achieve this grade by completing Bundle C except that you will complete only seven journal entries and no final paper.

**Tokens**

Recognizing that you have a lot of demands on your time and energy, tokens provide a level of flexibility in this grading system. You have three tokens to start the term. These tokens allow you to avoid penalties that
otherwise would hinder your ability to achieve your target grade. For example, you can use a token for missing 1 journal assignment or missing one class without it counting towards your totals in the bundles (you must tell me you want to use the token this way), turning in any written assignment up to 5 days late, or revising an assignment that did not achieve a passing grade. You will not be penalized for any of these issues if you have tokens to use. I am open to other uses of tokens that I cannot predict, so do not be limited by this short list of options. You can also earn tokens by doing truly exceptional work (a high pass) on non-journal assignments.

At the end of the term, your tokens will come in handy to reward you. For every 3 tokens you have, you will move up the grading scale by a +. That is, if you are in the B Bundle category and you complete all assignments with a pass and end the term with 3 tokens, you will get a B+. If you end up with 6 tokens, you can achieve an A-. So, use your tokens carefully and see if you can earn more.

Other Notes
Reference Style: Use APA reference style for all sources including interviews, Internet articles and websites, books, magazine articles, journal articles, personal communications, etc. Make sure to cite all sources from which you obtain information to make claims or build arguments. Your papers will be strengthened through using sources from both within and outside the course. Make sure to cite all of these references accurately and completely to avoid violations of the Honor Code and to increase the quality of your work.

Editing: I strongly recommend that you develop an editing process. You should feel free to work with your peers either among your classmates in this class or outside of this group. Many times, our best and most critical editors can be found outside of our most familiar group. For those who have difficulty finding a peer editor or who specifically need assistance on clarity and grammar, I suggest you make an appointment to visit the Writing Center: https://writingcenter.colostate.edu) to polish your papers and essays prior to submitting them. At the very least, you should sit on anything you write for a couple hours and then edit it before submitting. For larger papers, I suggest revisiting after a day at the least.

Other Course Policies
Late Work Policy
I do not accept late work unless we have discussed some unusual circumstance and you have gotten my approval for an extension and are using a token.

Attendance Policy
We accommodate student participation in University-sanctioned extracurricular/co-curricular activities. Absences for these reasons do not count toward your class absences listed in the grading scheme above. Students must inform their instructors prior to the anticipated absence and take the initiative to make up missed work in a timely fashion. In the event of a conflict in regard to this policy, individuals may appeal using established University procedures. For the purposes of this regulation, University-sanctioned activities include competitions, events and professional meetings in which students are officially representing the institution. Appropriate sanctioned activities include:

a. Intercollegiate athletics;
b. Collegiate club sports and competitions;
c. Conferences and workshops recognized by the University not related to academics;
d. Commitments on behalf of the University (ASCSU, band, etc.); and
e. Professional activities recognized by the University related to academics.

Department heads or their designated representatives must approve sanctioned professional and departmental activities. Other sanctioned activities must be approved by the appropriate program director on record with the Division of Student Affairs offices or the Department of Athletics.
Grades of "Incomplete"
Per university policy, an instructor may assign temporary grade of Incomplete to a student who demonstrates that he or she could not complete the requirements of the course due to circumstances beyond the student's control and not reasonably foreseeable. A student must be passing a course at the time that an Incomplete is requested unless the instructor determines that there are extenuating circumstances to assign an Incomplete to a student who is not passing the course. When an instructor assigns an Incomplete, he or she shall specify in writing using the Department Incomplete Grade Form the requirements the student shall fulfill to complete the course as well as the reasons for granting an Incomplete when the student is not passing the course. The instructor shall retain a copy of this statement in his or her grade records and provide copies to the student and the department head or his or her designee. (Section I.6 of the Academic Faculty and Administrative Professional Manual)

Disability Access
Colorado State University is committed to providing reasonable accommodations for all persons with disabilities. Students with disabilities who need accommodations must first contact Resources for Disabled Students before requesting accommodations from the professor. Resources for Disabled Students (RDS; http://rds.colostate.edu/home) is located in room 100 of the General Services Building. Their phone is (970) 491-6385 (V/TDD). Students who need accommodations in this course must contact the professor at the beginning of the semester to discuss needed accommodations.

Religious Accommodation
Participation in official University activities, e.g., an out-of-town athletic event, or special religious observances may provide a legitimate reason for an excused absence. The student is responsible for discussing this with the instructor at the beginning of the semester.

Professionalism Policy
Per university policy and classroom etiquette; mobile phones, iPods, etc. must be silenced during all classroom and lab lectures. Those not heeding this rule will be asked to leave the classroom/lab immediately so as to not disrupt the learning environment. Please arrive on time for all class meetings. Students who habitually disturb the class by talking, arriving late, etc., and have been warned may suffer a reduction in their final class grade. When emailing the instructor, please include “NR 567” in your email subject line.

Academic Integrity
The Department of Forest and Rangeland Stewardship takes academic integrity seriously. At minimum, academic integrity means that no one will use another's work as their own. The CSU writing center defines plagiarism this way:

Plagiarism is the unauthorized or unacknowledged use of another person's academic or scholarly work. Done on purpose, it is cheating. Done accidentally, it is no less serious. Regardless of how it occurs, plagiarism is a theft of intellectual property and a violation of an ironclad rule demanding "credit be given where credit is due."

If you plagiarize in your work you could lose credit for the plagiarized work, fail the assignment, or fail the course. Each instance of plagiarism, classroom cheating, and other types of academic dishonesty will be addressed according to the principles published in the CSU General Catalog (under “Academic Integrity/Misconduct: http://catalog.colostate.edu/general-catalog/policies/students-responsibilities/)
Of course, academic integrity means more than just avoiding plagiarism. It also involves doing your own reading and studying. It includes regular class attendance, careful consideration of all class materials, and engagement with the class and your fellow students. Academic integrity lies at the core of our common goal: to create an intellectually honest and rigorous community. Because academic integrity, and the personal and social integrity of which academic integrity is an integral part, is so central to our mission as students, teachers, scholars, and citizens, we will ask to you sign the CSU Honor Pledge as part of completing all of our major assignments. While you will not be required to sign the honor pledge, we will ask each of you to write and sign the following statement on your papers and exams: “I have not given, received, or used any unauthorized assistance.”

Title IX Information
CSU’s Student Sexual Harassment and Violence policy, following national guidance from the Office of Civil Rights, requires that faculty follow CSU policy as a “mandatory reporter” of any personal disclosure of sexual harassment, abuse, and/or violence related experiences or incidents shared with the faculty member in person, via email, and/or in classroom papers or homework exercises. These disclosures include but are not limited to reports of personal relational abuse, relational/domestic violence, and stalking. While faculty are often able to help students locate appropriate channels of assistance on campus (e.g., see the CSU Health Network link below), disclosure by the student to the faculty member requires that the faculty member inform appropriate CSU channels to help ensure that the student’s safety and welfare is being addressed, even if the student requests that the disclosure not be shared.

For counseling support and assistance, please see the CSU Health Network, which includes a variety of counseling services that can be accessed at: http://www.health.colostate.edu/. And, the Sexual Assault Victim Assistance Team is a confidential resource for students that does not have a reporting requirement and that can be of great help to students who have experienced sexual assault. The web address is http://www.wgac.colostate.edu/need-help-support.
Source: http://oeo.colostate.edu/title-ix-sexual-assault

Non-Discrimination Statement

Case Law Analysis Assignment Instructions
The objective of this assignment is for students to:
- Demystify and decode judicial influence in environmental and natural resource management
- Become familiar with legal research as an analytical tool to policy analysis
- Understand and appreciate the “standards of review” for environmental and natural resource lawsuits

See the syllabus for your case options.
Case briefs are concise documents that describe the basic elements of a court ruling. It is a format that can help distill dozens of pages into 3 or 4 pages, single-spaced. Your brief should contain the following:

1. **Title and Citation**
The title of the case shows who is opposing whom. The name of the person who initiated legal action in that particular court will always appear first. Since the losers often appeal to a higher court, this can get confusing. The citation tells how to locate the reporter of the case in the appropriate case reporter. These are both in the syllabus.

2. **Facts of the Case**
A good student brief will include a summary of the pertinent facts of the case. It will show the nature of the litigation, who sued whom, based on what occurrences, and what happened in the lower court/s. The facts are often conveniently summarized at the beginning of the court’s published opinion and also can often be found in summaries online. Sometimes, the best statement of the facts will be found in a dissenting or concurring opinion.

The fact section of a good student brief will include the following elements:
1. A one-sentence description of the nature of the case, to serve as an introduction.
2. A summary of the factual background (what are facts relevant to the legal issue), the complaint, and the background leading up to this particular lawsuit (what other procedures and actions took place before the issue went to court).

3. **Legal Issues**
The issues are the questions of law raised by the facts of the case are often stated explicitly by the court. Again, watch out for the occasional judge who misstates the questions raised by the lower court’s opinion, by the parties on appeal, or by the nature of the case. When noting issues, it may help to phrase them in terms of questions that can be answered with a precise “yes” or “no.” Note that for the cases we are looking at, there are not usually debates about the facts, but rather whether a legal standard was met. More students misread cases because they fail to see the issues in terms of the applicable law than for any other reason. There is no substitute for taking the time to frame carefully the questions, so that they actually incorporate the key provisions of the law in terms capable of being given precise answers. In most cases we’re interested in this class, relevant laws will include NEPA, ESA, NFMA, Clean Water Act, Clean Air Act, and the Administrative Procedures Act. So, be sure you do the following:

1. Describe the issue and its relevance to specific laws by framing key issues relative to applicable laws and answering “yes” or “no” to the questions.
2. Describe the legal standards the judges used to decide the issue.
3. Describe the factual evidence and main arguments presented by both parties, and the court’s analysis and reasoning vis-à-vis these arguments – how did the judges apply the decision rules to the facts of this case.

4. **Holding and Reasoning**
The decision, or holding, of the court based on its application of decision rules to the evidence and arguments. Described the holding for each issue and the associated reasoning. The reasoning, or rationale, is the chain of argument which led the judges in the majority opinion to rule as they did. Do this in a concise format. This should be outlined point by point in numbered sentences or paragraphs.
5. Separate Opinions
Provide a short description of both concurring and dissenting opinions, noting the key points of these opinions. Knowledge of how judges of a particular court normally line up on particular issues is essential to anticipating how they will vote in future cases involving similar issues, so note who issues concurring or dissenting opinions.

6. Analysis
Write a short paragraph of your own evaluation of the case. Your job is to critically examine the assumptions and values of the judges, and the quality of the decision rules and reasoning the judges applied to the evidence and arguments. You should present your personal assessment of the “rightness” of the decision and the logic of the reasoning behind the decision.

A CAUTIONARY NOTE
Don’t brief the case until you have read it through at least once. Be sure you understand the case and give it a critical read.

EA Analysis Assignment Instructions
You will analyze an Environmental Assessment and evaluate it as a citizen and according to “standards of review” that NEPA experts and the courts have developed to determine if analyses meet the Act’s requirements and intents.

Please craft a paper, no more than 10 pages, that includes the following:

1) **A brief intro to NEPA and its primary requirements and purposes; a statement of what this paper will do** (no more than a page)
2) **Standards of NEPA Review (~8 pages):** Discuss the following topics/questions and provide justification for your responses. Be sure to discuss legal standards for each of these areas before you go into the content of the document. For each topic explain whether the legal standard was met.
   - Project purpose and need: Explain what the project is, where it is, and the purpose and need.
   - Scoping and Issues: Discuss the process and issues that arose.
   - Alternatives: What were the alternatives, and was there a reasonable range of alternatives explored in the EA? Did the Forest Service devote substantial treatment for each alternative and allow you to see the differences (i.e. why you might choose one over the other?)
   - Pick one of the environmental attributes examined in the “Environment Consequences” section (i.e., soils, fire and fuels, wildlife, recreation, etc.)
     - Did the Forest Service perform a “hard look” at the environmental consequences?
     - Did the Forest Service use adequate and appropriate information (i.e. high quality science) in analyzing the consequences for each alternative?
   - Comments. Were all comments for your chosen resource addressed adequately?
   - Read the Decision Notice. Does the decision-maker provide an adequate rationale for their decision?
   - Should a full EIS be done for this project? Why or why not?
3) **Your perspective as a citizen (~1 page):** Address the following questions
   - Does the EA provide you with the information you need/want to evaluate the project?
   - Did you feel like other alternatives should have been analyzed and why?
   - Is there information and/or dialogue you would want to have that is outside the scope of this analysis or did you feel like this document and scoping and comments covered the main issues and debates?
In summary, what is your perspective on this document, both as a citizen and in terms of it meeting legal requirements?