

**From:** [David Goodwin](#)  
**To:** [Mike Murray](#); [Robert Fisher](#); [Patrick Field](#)  
**Cc:** [Jason Rylander](#)  
**Subject:** Fw: Reg-Neg Preliminary Documents  
**Date:** 08/29/2008 01:00 AM

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FYI

David Goodwin  
[dagwerksobx@yahoo.com](mailto:dagwerksobx@yahoo.com)

----- Original Message -----

**From:** [David Goodwin](#)  
**To:** [irenen@mindspring.com](mailto:irenen@mindspring.com)  
**Cc:** [CAHA Business Allies](#)  
**Sent:** Friday, August 29, 2008 12:52 AM  
**Subject:** Re: Reg-Neg Preliminary Documents

Not at this time. For now, at least, this is a private conversation between you & me. I may revise & extend my remarks for publication at a later time.

David Goodwin  
[dagwerksobx@yahoo.com](mailto:dagwerksobx@yahoo.com)

----- Original Message -----

**From:** [IRENE C NOLAN](#)  
**To:** [David Goodwin](#)  
**Sent:** Friday, August 29, 2008 12:29 AM  
**Subject:** Re: Reg-Neg Preliminary Documents

David:  
Are your comments on the NegReg process for publication?

Irene

IRENE NOLAN  
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----- Original Message -----

**From:** [David Goodwin](#)  
**To:** [irenen@mindspring.com](mailto:irenen@mindspring.com)  
**Cc:** [CAHA Business Allies](#)  
**Sent:** 8/28/2008 11:19:43 PM  
**Subject:** Re: Reg-Neg Preliminary Documents

Irene,

Like you said, I guess we will just have to disagree.  
It is a fact that subcommittee products should be withheld from publication. That

is in FACA. As preliminary documents written for negotiating purposes, no one really knows what the final product (to be publicized) will be. Read the FACA for yourself & decide.

Each of the subcommittees were charges to develop two or three proposals to present to the full committee. You have copies of two of the proposals that the Routes & Areas subcommittee have put together. Again, by publishing these documents, you have threatened the negotiation process by publicizing the offerings of each side of the issue. No one will be comfortable making further concessions/negotiations, thanks to your desire to get it out to the public. The public has no business being a party to these early-on stages of negotiations.

The full committee will still have to review & negotiate from the proposals set forth by the subcommittees. No one's being left out. Those that were not assigned to the subcommittee in question will have the opportunity to have their say. No one is trying to keep anything of substance from the public. That's just the point - these preliminary negotiations lack the substance that will come from the full committee's deliberations. They have no power other than that of suggestions. All could be changed in an instant while in full committee.

Those of us on the full committee were assigned by the Department of the Interior after a lengthy & somewhat rigorous "vetting" period. We, for the most part, were approved by our constituents - the public - to carry our & their concerns to the negotiation. Right or wrong, the NPS is going to listen to us, not John Q. Public. That's one of the reasons for the committee, to condense the public's voice down to a few; rather than trying to listen to the discordant voices of many. Either we have the confidence of the public or we don't. Most of us were encouraged to take part in Reg-Neg because the public either didn't have the time or the inclination to get involved.

As far as the consent decree goes, I am one of many who disagree with the signing of the consent decree. Before you say "foul", you need to know the difference between Reg-Neg & a judicially-founded decree. The Reg-Neg is open to the public; the negotiations for the consent decree were not. This was by design. What happened was that we trusted our "representatives" to do the right thing with the consent decree, but they lacked the foresight to see what would happen. They didn't think of unintended consequences. The Reg-Neg, on the other hand, is full of people that ARE concerned about what happens "down the road". We are, after all, writing a plan that will be in effect for decades to come. We all carry that burden.

There are rules that must be followed for Reg-Neg to work. While you believe that it should all be open to the public, there are some things that are not. The subcommittee preliminary negotiation documents are not. No, I do not think that the public needs to know from what point negotiations begin. It only serves to raise the level of useless rhetoric & angst. We are not writing a plan in a vacuum, we are fully aware of what our constituents want to happen. It was they that gave us this task.

David Goodwin

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----- Original Message -----

**From:** IRENE C NOLAN

**To:** [David Goodwin](mailto:dagwerksobx@yahoo.com)

**Sent:** Thursday, August 28, 2008 10:11 PM

**Subject:** RE: Reg-Neg Preliminary Documents

David:

I thank you for your thoughtful comments. I guess we just disagree on this. I think the work of the subcommittees should be public -- that the entire process should be transparent. As I wrote in my column that is now posted on the front page, why should I know what is being proposed and discussed when the public does not? And I am not the only person not on the RegNeg committee who has this information. Believe me, it is out there. And if it is out there, it should be before the public. Do you really think that the subcommittees should negotiate in private and show up one day at the full RegNeg committee and just put forward a proposal for access routes or fees or whatever without any public knowledge of what is being negotiated? This is going to put access groups in exactly the same position that they were in after the consent decree -- folks are still angry that access groups and politicians signed off on the decree and that they had no input.

Also:

I have asked Mike Murray for the documents as part of the public record. He is conferring with DOI solicitors and has promised a reply shortly.

I do now have the access groups' counterproposal to Walker's, so I can publish both. I am not playing to the "throngs." I believe that this process of negotiating must be more public if you on the committee expect the public to support a final rule -- if you don't want them to think that you are negotiating away access for one area, in order to gain access to another area. That may indeed be what it comes down to, but at least if the public knows what is on the table and can have some input, they will have more ownership of the final rule.

Also, the ground rules for the committee do not prohibit the release of anything to the media. They refer to "seriously" compromising negotiations and prohibit members from representing the views of others, etc.

However, the ground rules also dictate that members "keep their constituencies informed about the committee's deliberations and to actively seek their input."

Again, I just disagree. I don't think I will hurt the credibility of The Island Free Press by giving the public access to information they should have.

Irene

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**From:** [David Goodwin](mailto:David.Goodwin@islandfreepress.org)  
**To:** [Irene Nolan](mailto:Irene.Nolan@islandfreepress.org)  
**Cc:** [CAHA Business Allies](mailto:CAHA.Business.Allies@islandfreepress.org)  
**Sent:** 8/28/2008 9:34:09 PM  
**Subject:** Reg-Neg Preliminary Documents

Irene,

I have heard that you have in your possession a copy of Walker Golder's preliminary negotiation document & are hell-bent on publishing it. Before you do, you should consider several things:

By publishing these confidential documents, you are participating in undermining the Reg-Neg process. I know you have received emails from Jason Rylander expressing his concerns. This concern is shared by many of us on the Access side, too.

I have looked over the FACA (Federal Advisory Committee Act), which governs the Reg-Neg committee. There are indications in the Act that restrict access to documents between subcommittee & the parent committee, particularly when the subcommittee is not directly advising the Federal Government. Obviously, these preliminary documents are not directed toward the NPS or any other Federal Agency. I don't know for sure, but you may even be liable for the publication of these documents prior to public release at the Reg-Neg.

I understand your desire to keep your public updated on events considered "important". The deliberations of these subcommittees ARE important. But if you insist on continually publicizing these documents that you receive (but shouldn't have), you will render the effectiveness of these subcommittees moot. I am sure that Jason has said in his emails that he is now much less willing to negotiate considering the publicizing of these documents. To continue to publish these documents WILL affect Reg-Neg negatively.

At issue here is the publishing of preliminary documents BEFORE the Reg-Neg committee has even had a chance to see the documents for themselves. Reg-Neg is open to the public, but I believe you will find that subcommittee products/deliberations are not & should not be publicized. I know that many readers are anxious for any scrap of info they can get their hands on, but they will just have to wait for the full committee to review & comment on these documents. You are also damaging your excellent reputation by prematurely publishing these documents. The throngs may love it, but you are hurting yourself.

If you decide to publish Walker's proposal, then you should at least wait until the Reg-Neg committee has had a chance to review it. You should also print the Access proponent's proposal. To do otherwise is extremely damaging to all of the work we all have put into the negotiated rulemaking process.

You have been steadfast in your support for access in CAHA. For that I thank you. But please do not further undermine the process we have all been working on since 2005.

David Goodwin  
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