

# Public hearing within the environmental impact assessment review process

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## ABSTRACT

The integration of public participation/involvement of stakeholders in Environmental Impact Statement (EIS) Review is very important in terms of its implication for sound decision making and the sustainability of development activities. In this regard, the Ghana EIA Procedures provide for the involvement of stake holders in the assessment and review of proposed undertakings. This is achieved through a number of mechanisms, particularly the holding of public hearings.

In public hearings within the context of the Ghana EIA Process shareholders and proponents are brought together in a forum to express their opinions and offer suggestions on a proposed undertaking in order to influence the decision-making process. This process has been applied selectively in Ghana and this paper explores why some of the projects were subject to public hearing, and the objectives, form and outcomes of this process. It concludes that stakeholders' involvement in review is essential and may lead to enormous benefits for the proponent, stakeholders and the nation. Where this is ignored, conflicts and problems may be created for project implementation and sustainability.

## INTRODUCTION

The Environmental Protection Agency (EPA) has as its mandate the EPA Act 1994 (Act 490) to ensure compliance in planning and execution of all development activities with the Environmental Impact Assessment (EIA) Procedures in order to promote environmentally sound and sustainable development in the country.

This led to the implementation of the Ghana EIA Procedures in 1995 which, among other objectives, seek to provide an avenue for the involvement of the public, private proponents and agencies in the assessment and review of proposed undertakings. This is to ensure that the concerns and needs of the affected population are considered and addressed.

In addition, the Environmental Protection Agency (EPA) has responsibility for involving the public in the review of Environmental Impact Statements (EISs). This is achieved through mechanisms such as the serving of a 21 day public notice of an EIS publication through newspaper advertisements

**See Topic 3**

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*Public involvement*

inviting comments from interested and affected parties. Where strong public concerns are raised over an undertaking, and its potential impacts are extensive and far reaching, the Ghana EIA Procedures provide for public hearing to be conducted as part of the review of the project's EIS.

Between 1995-1997 a total of 72 EISs were conducted in Ghana and eight of these were the subject of public hearing. This paper attempts to explore why some projects were subjected to public hearings, and the objectives and purposes, form and outcomes of public hearings.

### **PUBLIC HEARING PROCEDURE AND FORM**

Public hearing is a form of participation in which stakeholders and proponents are brought together in a forum to express their opinions and offer suggestions on a proposed undertaking in order to influence the decision-making process. It is usually organised by the Environmental Protection Agency within the project area of influence and moderated by an independent panel. The procedure adopted during public hearings includes the following steps:

- the introduction of panelists, traditional leaders, government department staff, representatives of all community groups, non governmental organisations and individuals;
- the purpose and objectives of the public hearing are then made clear to the participants;
- the proponent is then given an opportunity to make a presentation on the project EIS. This must be done in the local language to facilitate better understanding of issues and should pay particular attention to those issues that are likely to affect the local community directly (the presentation should include a summary of the project proposal, outline of the main benefits and negative effects of the project to the local people, district and the nation, and an indication of how the key negative impacts would be mitigated);
- representatives of the affected communities, and other stakeholders, also present their opinions and concerns about the proposal;
- the proponent is then given the opportunity to react to the substantive issues and concerns raised; and
- the panel members collate all the concerns raised and make their findings and recommendations known to the forum and then to the Environmental Protection Agency.

Most public hearings last for a period of about five hours and are well attended. In a particular case, as many as 600 people attended the meeting. These included chiefs, community representatives, government officials, and the proponent's representatives.

### **OBJECTIVES AND PURPOSE OF PUBLIC HEARING**

The main objectives for organising these public hearings as part of the EIA review process are:

- to provide a forum for the proponent to inform the entire community of the outcome of the Environmental Assessment of proposed undertakings;
- to verify the accuracy of the EIA findings in relation to the situation on the ground;
- to confirm that all the affected parties and stakeholders have been adequately consulted and have been part of the various decision-making processes;
- to offer the affected and interested parties, as well as other stakeholders, the opportunity to express their opinions on any issues considered outstanding; and
- to promote effective public participation and ensure confidence in the Ghana EIA process as well as support for the proposed undertaking.

### REASONS FOR PUBLIC HEARINGS

Generally the Ghana EIA Procedure requires the EPA to hold a public hearing as part of an Environmental Impact Statement review where:

- the expected environmental impacts are considered extensive and far reaching;
- there is great adverse public reaction to a proposal; and
- there will be relocation or dislocation of communities.

<i>Reasons for Public Hearing</i>	<i>Coldstone Supermarket Recreational Development</i>	<i>Ewase Gold Mine</i>	<i>Damang Gold Mine</i>	<i>Tankwa Gold Mine</i>	<i>Skell Service Station</i>	<i>Adimona Road</i>	<i>Mpeasem Gold Mine</i>	<i>Bibiiani Gold Mine</i>	<i>Akyempim Gold Mine</i>
Relocation/Resettlement of communities		•	•	•			•		•
Strong public concern about Environmental impacts	•	•	•	•	•	•	•	•	•
Proximity to Settlements in the case of mining	•							•	
Diversion of Railway lines, Streams, Power lines			•	•					

Table 1: Reasons for public hearings

In practice, four main reasons have accounted for the holding of public hearings on eight projects in Ghana. These reasons are summarised in Table

1 which also indicates that a majority of the projects were gold mines. This can be attributed to the need to relocate or resettle affected communities as well as the strong public concerns expressed about the overall impacts of these projects. The only exceptions were the recreational/supermarket /coldstore development and the Shell Service Station. Both attracted a lot of public concern principally due to the scale of the coldstore facility and the siting in close proximity to the Volta River Authority Electricity Sub Station in Achimota-Accra respectively.

### **ORGANISATION OF A PUBLIC HEARING**

Prior to the holding of public hearing on any given project the following activities are undertaken:

- the selection of site for the meeting;
- posting of notices;
- invitation of stakeholders;
- selection of panelists; and
- a reconnaissance trip to the project area of influence.

The selection of the proposed site and date for the public hearing is done in close consultation with the proponent, the local authority and the affected communities. It is important to achieve a consensus on the site.

Notices are served through:

- advertisement in all the national newspapers which draw attention to the publication of the EIS and public comments within 21 days of the notice ( it is required that the notice appears three times);
- announcements made on the National Radio and Television of an impending public hearing;
- advertisement in the affected area using local advertising media like the beating of 'gong gong'; and
- pasting of public notices in areas where impacts are likely to be directly felt.

Letters are also sent to all statutory government departments informing them of the public hearing and inviting them to participate. For instance in the case of a mining project the Ministry of Mines and Energy, Minerals Commission, Mines Department, Regional Administration and the District Assembly that has planning and management responsibility over the area where the activity is located would be invited. In certain cases specialised agencies or departments are invited to comment on the proposal, depending on its nature. For instance where a proposed activity would result in the diversion of railway lines, the Ghana Railway Corporation would be invited to the forum. Non Governmental Organisations which express concerns about the activity under consideration are also specially invited.

In addition, traditional authorities, chiefs, elders and identifiable groups such as farmers' associations in the affected communities are notified and invited to participate in the public hearing.

It is essential that, as part of the preparation, a reconnaissance visit is made by a team of officers to the affected communities to inform these communities and interact with their leaders and identifiable groups. During such visits invitation letters are formally served and notices pasted. Interactions during these visits give indications about the key areas of concern that are likely to come up during the hearing. The conditions that would prevail at the hearing are easily predetermined during the reconnaissance visit.

Where people feel very strongly about a project and there are potential signs of serious public disturbance arising from the meeting, the agency at this stage would be informed and will provide the necessary security. The outcome of the public hearing depends to a very large extent on the quality of the reconnaissance exercise.

As part of the preparation a panel must be constituted. In practice the membership includes a representative of a relevant professional body like the Ghana Institute of Engineers, Architects and Planners, the EPA and the District Assembly. A chairman, who must not be resident in the project area of influence, is appointed by the panelists. The panel may have a membership of three or five and a third of its members must hail from the affected project area.

### **OUTCOMES OF PUBLIC HEARINGS**

At the end of any public hearing the panel submits a report making its findings and recommendations to the decision-making authorities (principally to the Environmental Protection Agency) as an input to the overall project EIA review process. The Agency, in arriving at its final decision, will consider these concerns and recommendations. When the final decision is made on the project EIS, the Agency notifies the proponent, the Minister of Environment, Science and Technology, the appropriate sector Minister, the appropriate District Authority, and relevant government departments.

It is important to state that the findings of public hearings have had considerable influence on the EIS Review. In some cases certain aspects of the project proposal had to be altered, additional mitigation proposals and commitments were made and final decision on projects delayed until substantive issues were addressed. For instance the coldstore/supermarket and shopping mall proposal was advised to reduce the scale of the cold store facility in the proposal by about 50% of its storage capacity.

Again, Shell Ghana Limited was advised principally to relocate its Achimota Service Station in view of the potential problems that might arise in siting it in close proximity to the Volta River Authority Sub-Station in Accra.

In the case of the six gold mining projects there were substantial revisions of certain portions of the proposed mitigation proposals. Where involuntary resettlement was involved a detailed plan and time table for resettlement which was to be agreed upon by all affected parties was submitted among other requirements prior to the granting of environmental approvals. In four of the six mining projects it was evident that consultations were inadequate and therefore proponents were requested to consult adequately and submit evidence of this consultation with the communities and other relevant personalities and institutions. For instance in the case of Tarkwa Gold Mine project, the public hearing showed that an important dominant group, (tenants), was not represented on the community negotiating team and therefore were creating problems for the Company in its negotiations.

### **BENEFITS AND HINDRANCES TO EFFECTIVE PUBLIC HEARING**

While it is a statutory requirement within the EIA review process, public hearings have been beneficial in terms of:

- providing an avenue for public information and interaction between the proponent and all interested groups;
- allowing people to articulate their views about a given project and make inputs which eventually enhance the quality of the project environmental assessment;
- leading to social acceptability of projects and promotion of harmonious relationship between the proponent and affected communities;
- creating confidence in the newly established Ghana EIA (this is evident by the level of participation in these hearings);
- unearthing issues that may be hidden from the reviewing authority; and
- resolving conflicts during public meetings since every party is given the opportunity to express concerns before an independent panel.

In spite of these benefits the effectiveness of public hearings have been hampered by:

- The inability of the affected communities to easily understand project proposals due to the low levels of literacy. It would have been more beneficial if the locals could have a thorough understanding of the EIS to facilitate effective discussions. Lack of understanding has usually led to hostilities during public hearings.
- The absence of EIA capacity at the District Assembly Level to undertake their own EIS review and to guide their communities to make inputs into EIA Studies.
- The absence of organised NGOs to assist communities in

understanding the issues and in making meaningful comments about a given project.

## CONCLUSIONS

The key lesson is that public participation in environmental assessment review is essential and may lead to substantial benefits for both the proponent and affected community. Where it is ignored it leads to conflicts and problems for project implementation, acceptability and sustainability.

## LIST OF RELEVANT PUBLISHED PAPERS AND OTHER SOURCE MATERIAL

EPA 1995, *Ghana Environmental Impact Assessment Procedures*, Environmental Protection Agency, Accra.

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