



STATEMENT OF QUALIFICATIONS

SUMMARY OF QUALIFICATIONS

In 2008, Ms. Swartz started her own small, woman-owned business specializing in all aspects of compliance with the National Environmental Policy Act (NEPA). She has over 35 years of experience in environmental law and regulation, focusing primarily on NEPA compliance issues. She is also well-versed in the requirements of the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA), particularly on the integration of those statutes with the requirements of NEPA.

For the previous 15 years, Ms. Swartz was a NEPA program/project manager, leading teams in the preparation of environmental impact statements (EIS) and environmental assessments (EA) for federal agencies and in the preparation of NEPA-related environmental reports for private industry. She previously served as the Deputy General Counsel at the Council on Environmental Quality (CEQ), providing authoritative guidance to federal agencies on all aspects of NEPA compliance. In that position, she reviewed se-

lected agency NEPA documents for procedural and substantive sufficiency, assessed the adequacy of proposed agency NEPA regulations, conducted NEPA training sessions for federal agencies, and prepared CEQ guidance and informational materials on NEPA analysis and documentation requirements, public participation, cumulative environmental impacts, and pollution prevention.

Using her strong energy background, Ms. Swartz has worked closely with the Department of Energy (DOE), the Federal Energy Regulatory Commission (FERC), and the Nuclear Regulatory Commission (NRC) to assist those agencies in the development of NEPA-implementing regulations and with NEPA compliance issues for particular projects. Ms. Swartz has also worked with many other federal agencies, such as the U.S. Forest Service, Bureau of Indian Affairs, National Oceanic and Atmospheric Administration, and National Science Foundation on various NEPA projects.

In 2012, Ms. Swartz was asked to serve on an expert panel for the National Academy of Sciences reviewing a draft EIS for the issuance of a special use permit along a national seashore. Ms. Swartz' role on the panel is to provide insights into the NEPA process in general and, in particular, on the appropriate level of detail and analysis required.

Ms. Swartz is the co-author of *The NEPA Reference Guide* (1999) and *Endangered Species: Legal Requirements and Policy Guidance* (2001). For Duke University's School of the Environment, she has prepared materials for and taught NEPA classes on a variety of subjects. She is also a regular speaker on NEPA legal issues for the National Association of Environmental Professionals and has taught NEPA courses for the American Law Institute-American Bar Association.

EDUCATION

J.D., Washington College of Law,
The American University (1979)

B.A., Political Science and Administrative
Studies, University of California at
Riverside (1976)

EXPERIENCE

NEPA Specialist. Since June 2008, Ms. Swartz has provided NEPA compliance services for several clients. Her work on these projects has included:

- ❖ NEPA strategy development, planning, and document development for several energy development companies seeking DOE financial assistance, including Tenaska's Taylorville Energy Center in Illinois and BP's Hydrogen Energy California Project;
- ❖ Technical and regulatory review of sections of a preliminary draft EIS for a proposed solar energy project for the U.S. Bureau of Land Management, focusing on alternatives and connected actions;
- ❖ Technical and regulatory review of the preliminary draft EIS for the proposed acquisition of the Elgin, Joliet and

Eastern Railway Company by Canadian National Railway Company and Grand Trunk Corporation, preparation of the EIS Executive Summary (draft and final), and preparation of responses to comments;

- ❖ Technical and regulatory review of the EIS for Summit Power's Texas Clean Energy Project;
- ❖ Review of a proposed NEPA compliance strategy for proposed public access on Valles Caldera National Preserve in New Mexico for the Valles Caldera Trust;
- ❖ NEPA compliance strategy development and review of the EIS for the issuance of a DOE Presidential permit for Northern Pass Transmission Project in New Hampshire;
- ❖ Initial NEPA compliance strategy development for the U.S. Department of

State Supplemental EIS for a Presidential permit for the Enbridge Line 67 (Alberta Clipper) Crude Oil Pipeline in North Dakota and Wisconsin;

- ❖ NEPA training at four U.S. Marine Corps bases (“Major NEPA Compliance Errors to Avoid”)
- ❖ Support for site selection, NEPA compliance, and environmental permitting for FutureGen 2.0, a public-private partnership that will retrofit an existing coal-fueled power plant in Illinois to demonstrate advanced oxy-combustion technology and transport the CO₂ captured from the plant by pipeline to a storage hub for deep geologic sequestration;
- ❖ Development of revisions to agency NEPA regulations and accompanying instructions for agency staff;
- ❖ Preparation of memoranda on NEPA, NHPA, and ESA compliance for nuclear power plant licensing;
- ❖ Technical and regulatory review of a final EIS for a dam and impoundment project and resulting Record of Decision in support of litigation;
- ❖ Recommending and executing revisions to NRC NEPA guidance (NUREG-1748); and
- ❖ Participation in siting studies for nuclear power plants, focusing on NEPA and ESA requirements.

Program and Project Management. For Battelle Memorial Institute, Ms. Swartz was the Program Manager for a DOE task order contract to provide NEPA compliance services (preparation of EISs and EAs) to any DOE program or office. Under

the first contract, Battelle was awarded 24 task orders, totaling over \$3.5 million. With Ms. Swartz continuing to serve as the Program Manager, Battelle was awarded a second DOE NEPA task order contract in September 2002.

Thirteen tasks totaling over \$4 million were awarded under the second contract.

DOE and FERC:

Project manager and/or principal author for:

- ❖ EA for the cleanup and closure of the Energy Technology Engineering Center in California;
- ❖ EIS for waste management activities and an EA for the decontamination, demolition, and removal of various facilities at the West Valley Demonstration Project in New York;
- ❖ Supplement Analyses for proposed activities at the Waste Isolation Pilot Plant in New Mexico; and
- ❖ EAs for the decontamination and decommissioning of the Juggernaut Reactor, Zero Power Reactor, and Building 301 at Argonne National Laboratory in Illinois.

Legal analysis of Endangered Species Act requirements and preparation of the introduction, statement of purpose and need, and description of the proposed action and alternatives for the Sonora-Arizona Transmission Line Project EIS.

Legal analysis of NEPA compliance issues for the Minnesota Agri-Power Plant EIS, including development of reasonable alternatives in an applicant situation and purpose and need for agency action.

Program management and oversight of a task for the preparation of an EIS for the Eagle Mountain proposed pumped storage project in California, an EIS for the Spokane River Developments and Post Falls Hydroelectric Projects in Washington, and gas pipeline compliance inspections at facilities across the United States for FERC's Office of Hydropower Licensing.

Program management and oversight of three tasks for the preparation of environmental assessments for gas pipeline projects in the Pacific Northwest and southeastern United States for FERC's Office of Pipeline Regulation

Other DOE Work:

Preparation of the summary and other selected portions of the Yucca Mountain Repository Draft EIS and overall review of the document to promote clarity and consistency as well as conformance with regulatory requirements, followed by the development of comment summaries and responses for Yucca Mountain Repository Final EIS Comment-Response Document.

Other Federal Agencies:

Project manager and principal author of a NEPA compliance study that reviewed existing and proposed NEPA regulations and agency NEPA implementation policies and practices for Rural Development, U.S. Department of Agriculture.

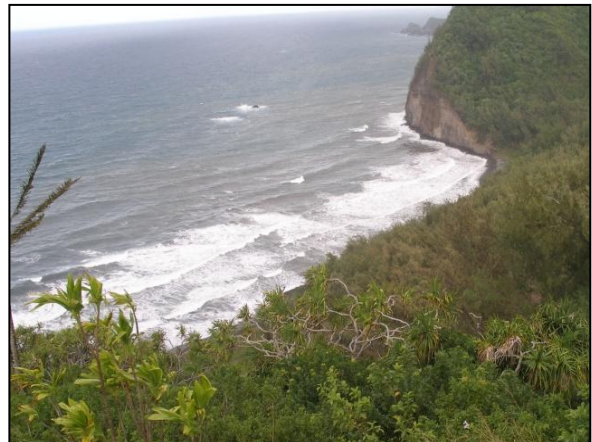
Project Manager for NRC's Office of Nuclear Material Safety and Safeguards (NMSS) on a task to review the NMSS NEPA program, including analysis, documentation, and training and principal author of the audit report.

Project manager on a task to prepare an EIS for the National Oceanic and Atmospheric Administration on guidelines for acoustic "takings" of marine mammals under the Marine Mammal Protection Act.

NEPA strategy and alternatives development support for an EIS for Flathead Lake (Montana) Drought Management Plan and for an EIS for the Cascade Locks Resort and Casino Project (Oregon), both for the Bureau of Indian Affairs through HDR Engineering.

Project manager for an EA and biological assessment for the Bureau of Indian Affairs on the transfer of operations and maintenance of the Flathead Indian Irrigation System in Montana.

Project manager and principal author of an EA for a proposed Life Sciences Build-



ing at Brown University in Providence, Rhode Island. The primary environmental issues were noise, air emissions, land use conflicts, and historic preservation.

Project Manager and principal author of an EA on a proposed Road Management Strategy for the U.S. Forest Service. The proposed strategy would restrict road

construction in roadless and other unroaded areas of the National Forests except under certain conditions.

Project Manager and principal author of an EA for the U.S. Forest Service on its proposed planning rule. The proposed rule set forth requirements for amending, revising, applying, monitoring, and evaluating the land and resource management plans (referred to as forest plans) required under the National Forest Management Act for each of the National Forests and Grasslands within the 192-million-acre National Forest System.

Review and revision of the Providence River and Harbor Dredging Project EIS and EIS for the Designation of Dredged Material Disposal Sites in Long Island Sound, Connecticut and New York for the U.S. Army Corps of Engineers. Also provided support for an EA for a proposed perimeter fence for the U.S. Military Academy at West Point for the U.S. Army Corps of Engineers.

Preparation of an EA for a Proposed Solid Rocket Motor Water Washout Facility at Hill Air Force Base in Utah for the U.S. Air Force.

Private Industry:

Ms. Swartz was the lead for the Siting/NEPA/Permitting component of Battelle's support for the FutureGen project, a near-zero emission coal-fueled power plant co-funded by the FutureGen Alliance and DOE. Under her leadership, the team prepared a request for proposals for FutureGen host sites, conducted a comprehensive evaluation of proposals to identify four candidate sites for further evaluation, and prepared environmental information volumes for each site – all in less than one

year. In addition, Ms. Swartz provided support as requested for DOE's FutureGen NEPA process, including providing comments on the Draft and Final EISs and draft Record of Decision. Ms. Swartz also supported the FutureGen Alliance's final site selection decision, preparing a comprehensive comparison matrix, briefing the Board of Directors, developing a recommendation, and preparing the final report on the site selection decision.

For Labat-Anderson Incorporated, Ms. Swartz served as Project Manager for contracts providing NEPA compliance support to DOE's Office of NEPA Policy and Assistance. Her support involved review of EISs and EAs for defense programs, waste management, and energy research programs at various DOE sites, as well as the preparation and review of NEPA-related agency guidance. This work included:

- ❖ Preparation of materials on NEPA/CERCLA/RCRA compliance and integration;
- ❖ Technical review and oversight of the Waste Management Programmatic EIS, including preparation of a Supplement Analysis;
- ❖ Preparation of "Effective Public Participation Under the National Environmental Policy Act;"
- ❖ Oversight and management of (1) technical reviews (including rewriting) of environmental impact statements, environmental assessments, and categorical exclusions; (2) NEPA training materials; and (3) regulatory guidance materials such as "Recommendations for the Preparation of Environmental

Assessments and Environmental Impact Statements" and the "EA Checklist."

Regulatory and Policy Analysis. Ms. Swartz specializes in all aspects of NEPA compliance, including integrating NEPA requirements with other environmental review and consultation requirements such as the National Historic Preservation Act, ESA, RCRA, and CERCLA. She provides support for federal agencies in conducting environmental analyses, preparing environmental documentation, and developing and implementing public participation and community relations plans. In addition, for DOE's Tritium Target Qualification Project, Ms. Swartz and others prepared a paper entitled *Tritium Production in a Commercial Light Water Reactor: Policy, Treaty, and Legal Implications* to analyze the use of a commercial reactor for the production of tritium for nuclear weapons, especially with respect to U.S. policy regarding separation of civilian and military use of atomic energy.

Management. Most recently, Ms. Swartz served as the Chief Operating Officer for the FutureGen Industrial Alliance, Inc. during the Alliance's development of the FutureGen 2.0 clean coal/carbon sequestration project. In this capacity, she worked with other senior managers on personnel, administration, and permitting matters.

Ms. Swartz has also supervised a staff of environmental scientists, planners, and engineers to promote professional competence and growth, as well as client satisfaction and revenue goals. While at CEQ, she assisted the General Counsel in the management and supervision of office staff; conducted and participated in environmental workshops, conferences,

and seminars; developed budgetary and other financial materials for the Office of Management and Budget and Congress; prepared and reviewed relevant sections of the Council's annual report; reviewed Freedom of Information Act requests submitted to the agency; and reviewed and monitored major procurement efforts and personnel matters. For Pacific Legal Foundation, Ms. Swartz assisted in the supervision and direction of attorney staff and in the administration of the firm, a non-profit public interest organization.

Legal. Ms. Swartz advised the CEQ Chairman and assisted the CEQ General Counsel with NEPA implementation, including application of CEQ regulations and guidance. She reviewed selected federal agency NEPA documents for procedural and substantive sufficiency, assessed the adequacy of proposed agency NEPA regulations, and prepared CEQ guidance and informational materials on environmental assessments, public participation, cumulative environmental impacts, and pollution prevention. She also assisted with development of environmental policies and communication of those policies within the Executive Office of the President and to Congress, counseled federal agencies regarding compliance with environmental impact assessment procedures, advised CEQ staff regarding the Ethics in Government Act and applicable regulations, and ensured compliance with the Federal Advisory Committee Act.

In addition, Ms. Swartz served as the minority staff counsel for the U.S. Senate Environment and Public Works Subcommittee on Nuclear Regulation which has jurisdiction over the Nuclear Regulatory Commission, the Tennessee Valley Authority, and general nuclear issues such

as licensing, advanced reactor designs, and disposal of nuclear waste. She provided advice to the Ranking Member of the Subcommittee and other members of the committee on nuclear-related issues; and assisted in the development of environmental legislation, particularly amendments to NEPA and the Clean Air Act. For NRC, Ms. Swartz actively participated in the nuclear reactor licensing process, with primary responsibility for development of discovery, preparation of witnesses and review of testimony, generation of legal memoranda concerning the agency's rules of practice and other regulations, and representation of the technical staff in agency hearings.

Litigation. Ms. Swartz has been responsible for state and federal litigation, including oral argument before federal district court and federal court of appeals, on environmental and land use issues such as wetlands regulation and zoning law. She was also involved with cases relating to federal preemption, protection of private property rights, and other constitutional issues.

Political. While working for the United States Senate, Ms. Swartz assisted members with constituent concerns relating to uranium mining, nuclear energy, and nuclear waste disposal by preparing appropriate letters, issue papers, and speeches.

INVITED SPEAKING ENGAGEMENTS

National Association of Environmental Professionals

Papers and presentations include:

- ❖ “Recent NEPA Case Law” (2003 – 2018)
- ❖ “Reclaiming NEPA” (2010)
- ❖ “NEPA in an Age of Terrorism” (2002)
- ❖ “Current Legal Issues” (2001)
- ❖ “TEA-21 and NEPA: How to Mitigate Inherent Conflicts of Interest” (2000)
- ❖ “Understanding Cumulative Impacts” (1999)
- ❖ “Effective use of Programmatic Environmental Impact Statements” (1998)
- ❖ “Achieving the 150-Page Environmental Impact Statement (and the 15-Page Environmental Assessment)” (1997)
- ❖ “Triggering the Environmental Impact Statement Requirement under the National Environmental Policy Act: Do Beneficial Impacts Count?” (1996)
- ❖ “NEPA in the 1990s: New Initiatives within the Council on Environmental Quality” (1991)

Duke University School of the Environment

Presentations include:

- ❖ “History of NEPA,” “Overview of CEQ and CEQ Regulations,” “Public Involvement,” “Scoping,” “Alternatives and Purpose and Need,” “Contents of the EIS,” “Categorical Exclusions, EAs, and FONSI” (2007 – 2011)
- ❖ “Lawyer Management” (2004)
- ❖ “Law of NEPA” (2002)
- ❖ “NEPA Case Law” and “Emerging NEPA Issues” (1990 – 1993)

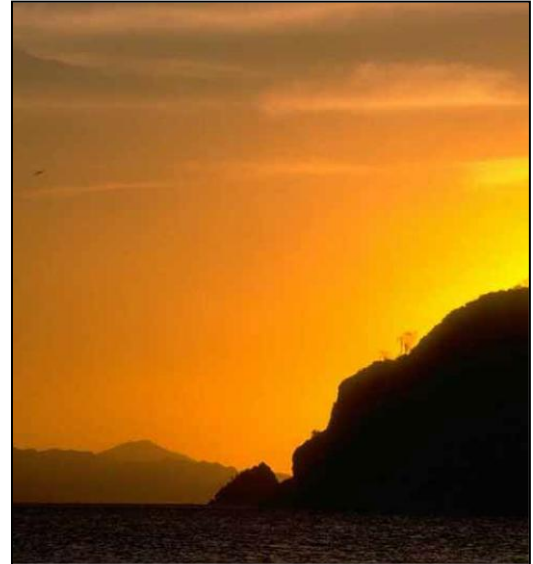
American Law Institute – American Bar Association

Presentations include:

- ❖ “NEPA at 40” (2009)
- ❖ “Direct, Indirect, and Cumulative Impacts” (1998)
- ❖ “Cumulative Impacts” (1997)
- ❖ “Public Participation in the NEPA Process: Scoping and Public Involvement” (1994)
- ❖ “Cumulative and Synergistic Impacts” (1992)

Other Presentations

- ❖ Carbon Tech Alliance, Symposium, "Policy Aspects of Carbon Capture and Storage," May 2012
- ❖ Institute for Energy Law, Oil and Gas Conference, "NEPA and EISs after Deepwater Horizon," February 2011
- ❖ Western Area Power Administration, "Relevant NEPA Case Law," October 2006
- ❖ Department of Justice, Legal Education Institute, "Cumulative Impacts," February 1997; "Public Participation in the NEPA Process: Scoping and Public Involvement," February 1994; and "Cumulative and Synergistic Impacts," November 1991
- ❖ Department of Energy, Office of NEPA Policy and Assistance, "Making NEPA Work Better and Cost Less," NEPA 25th Anniversary Conference, March 1995
- ❖ Northwest Hydropower Association, "Congressional Legislation and National Issues," September 1993
- ❖ Council on Environmental Quality, "National Environmental Policy Act: Current Implementation Issues," February and April 1992
- ❖ Executive Enterprises, Inc., "NEPA and Environmental Cleanup Considerations," December 1991 and "NEPA in



the 1990s: New Initiatives within the Council on Environmental Quality," January, February, and September 1991

- ❖ American Nuclear Energy Council, "Energy and the Environment," May 1991
- ❖ Conferences, seminars, and training courses sponsored by the Advisory Commission on Intergovernmental Relations, the Army Corps of Engineers, the Department of Energy, the Department of the Interior, the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, and the National Park Service

PUBLICATIONS

"Annual NEPA Report of the National Environmental Policy Act Working Group" (National Association of Environmental Professionals), 2008 – 2018, contributing author.

"NEPA in an Age of Terrorism," published in *Environmental Practice*, Oxford Press, December 2003.

Endangered Species: Legal Requirements and Policy Guidance, Battelle Press (2001), with Dr. Danny C. Reinke, 469 pp.

The NEPA Reference Guide, Battelle Press (1999), with Dr. Danny C. Reinke, 267 pp.

"Lessons from Department of Energy: Public Involvement in Siting," *Corporate Environmental Strategy*, Volume 2, Number 2, Autumn 1994.

"'Worst Case' Analysis: A Study in Reckless, Wasteful Conjecture," *Land and Water Law Review*, University of Wyoming College of Law, Volume 25, 1990 (authored with Senator Alan K. Simpson).

PROFESSIONAL AFFILIATIONS

Admitted to Practice

- ❖ District of Columbia Court of Appeals, December 1979
- ❖ Court of Appeals of Maryland, May 1980
- ❖ United States Supreme Court, January 1983

EMPLOYMENT HISTORY

2008 - Present	<i>Environmental Consultant</i>
1997 - 2008	<i>Program Manager - Battelle Memorial Institute</i>
1993 - 1997	<i>Director of Environmental Compliance - Labat-Anderson Incorporated</i>
1990 - 1993	<i>Deputy General Counsel - White House Council on Environmental Quality</i>
1989 - 1990	<i>Minority Counsel - U.S. Senate, Environment and Public Works Subcommittee on Nuclear Regulation</i>
1986 - 1989	<i>Deputy General Counsel - White House Council on Environmental Quality</i>
1981 - 1986	<i>Senior Staff Attorney - Pacific Legal Foundation</i>
1979 - 1981	<i>Staff Attorney - U.S. Nuclear Regulatory Commission</i>

"Lucy Swartz combines in-depth, practical knowledge of the NEPA process with an uncommonly high level of competency, courtesy, and efficiency. I highly recommend her!"

Dinah Bear
Former General
Counsel
White House Counsel on Environmental Quality

"Thank you so much for all of your help and support on this project...Your calm and professional approach to all of the tasks was very much appreciated."

John Morton
Senior Vice President
HDR Engineering,
Inc.

"Lucy was instrumental at spotting issues and working with us to prepare an effective litigation strategy. She was easy to work with and truly understood the impact of her decisions on the clients. I would recommend her in any complex environmental litigation."

Christopher P. Stroeck, Esq.
Arnold & Bailey
Shepherdstown, WV

"In 2006 and 2007, the FutureGen Alliance underwent a process to select a site for the FutureGen Plant. The innovative approach developed in the site-selection process is considered to be a standard that will be used for years to come for developers seeking sites for new power plants using Carbon Capture and Sequestration.

"Lucy Swartz combined her legal and environmental expertise to lead this important and successful effort. As CEO of FutureGen, I truly respect the dedication, capability, and insight that she brought to this effort."

Michael J. Mudd
Chief Executive Officer
FutureGen Industrial Alliance

"Completing the NEPA process for Presidential permits is a complex and unique undertaking. Often the process does not result in a permit because so few people actually understand the intersection of NEPA and Presidential permits. There really is only one person who understands the entire process and the players. That person is the former Deputy General Counsel at the White House Council on Environmental Quality, Lucy Swartz."

Ray Clark
Senior Partner, The Clark Group
Former Principal Deputy Assistant Secretary of the Army