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RHETORIC, PARTICIPATION, AND DEMOCRACY: THE POSITIONING OF
PUBLIC HEARINGS UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

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Rhetoric, participation, and democracy: the positioning of public hearings under the National Environmental Policy Act

Chairperson: Dr. Steve Schwarze

There are two predominant models for thinking about proper communicative conduct on the part of citizens participating in federal environmental decision-making. The consultative model is typically the basis for traditional forms of public participation. The consensus model has been developed as an alternative to the perceived failings of traditional forms of public participation, and underpin increasingly common collaborative approaches to public participation). In this paper, I will take a humanities based approach to advocating for the consideration of a third approach, that of ‘reasonable hostility.’ I argue that neither of the currently dominant models of participatory conduct successfully accounts for a role for the public hearing in a way that is compelling to most would-be participants. There is a need for a renewed view of public hearings that is both honest regarding the degree of opportunity for the public to directly influence federal environmental policy while also reconsidering the potential of public hearings in NEPA as a democratic communicative space. In the tradition of rhetorical scholarship I hope to enrich that view by highlighting the communicative moves necessary for the public hearing in NEPA to occupy a simultaneously ubiquitous but limited role as well as offering guidance for enhancing that role.

Rhetoric, Participation, and Democracy: The Positioning of Public Hearings under the National Environmental Policy Act

Environmental Communication scholars have widely considered both aspirations for public participation in environmental decision-making and the constraints that hinder achieving those aspirations. Much of the contemporary scholarship, particularly in regard to participation in federal natural resources policy in the United States, has focused on opportunities stemming from the National Environmental Policy Act (NEPA). The two most commonly used approaches to public participation in NEPA decision-making are public hearings and consensus-based processes (Peterson & Feldpausch-Parker, 2013). Public hearings have been held regularly throughout the forty years since the NEPA's passage as a means for the government and citizens to communicate about environmental policy and are a culturally resonant democratic practice that is a cornerstone of popular understandings of public participation in governmental decision-making in the United States. The fact that public hearings have remained a well-known feature of political life while being constrained in an often marginal role is critical to understanding the limitations and opportunities that exist for citizens to be robustly involved in federal environmental policy.

There are two predominant models for thinking about proper communicative conduct on the part of citizens participating in federal environmental decision-making. The consultative model is typically the basis for traditional forms of public participation. The consensus model has been developed as an alternative to the perceived failings of traditional forms of public participation, and underpin increasingly common collaborative approaches to public participation (Peterson & Feldpausch-Parker, 2013). In this paper, I

will take a humanities based approach to advocating for the consideration of a third approach, that of ‘reasonable hostility.’ I argue that neither of the currently dominant models of participatory conduct successfully accounts for a role for the public hearing in a way that is compelling to most would-be participants. There is a need for a renewed view of public hearings that is both honest regarding the degree of opportunity for the public to directly influence federal environmental policy while also reconsidering the potential of public hearings in NEPA as a democratic communicative space. In the tradition of rhetorical scholarship I hope to enrich that view by highlighting the communicative moves necessary for the public hearing in NEPA to occupy a simultaneously ubiquitous but limited role as well as offering guidance for enhancing that role.

Rhetorical scholars have previously looked at how the rhetoric of federal agencies works to diminish the importance of participation in NEPA processes by the public. Through the analysis of Bureau of Land Management Environmental Impact Statement documents, Killingsworth and Palmer (1992) concluded that these agency documents fail rhetorically because they do not persuasively demonstrate "the likelihood of an outsider influencing an agency action" (p. 170). Schwarze (2004) also found that EIS often position public participation in ways that alienate the public, but did not mark this fact alone as a rhetorical failure in the documents. According to Schwarze, his study of management plans for the Boundary Waters Canoe Area Wilderness "both confirms and problematizes the critique of agency rhetoric offered by Killingsworth and Palmer" (p. 141). Schwarze argued that EIS fail to consider citizens and interest groups as potential audiences and therefore fail as persuasive texts. His analysis of planning documents

showed “how the rhetorical constraints on the plans inhibit the consideration of legitimacy as a potential rhetorical effect” (p. 139). Schwarze found that public participation is positioned by the EIS in a manner that objectifies public participation and fails to account for a connection between participation and the decision-making process.

For Killingsworth and Palmer, as well as Schwarze, the EIS demonstrates that NEPA processes primarily serve as an institutional justification for agency action rather than as a persuasive public discourse. These rhetorical scholars have found a link between the rhetoric of agency documents and the limitations of public participation in their case studies. As my survey of the literature will show, the bulk of Environmental Communication scholarship on public hearings has looked at the levels of satisfaction regarding various participatory forms rather than analyzing the connection between the perceived legitimacy of policy outcomes and the rhetorical positioning of the participatory practices utilized in those processes. I intend to follow these rhetorical scholars (Killingsworth & Palmer, 1992; Schwarze, 2004) in assessing the positioning of public participation, though by analyzing agency rhetoric that is explicitly addressed to a public audience. Rather than assessing the limitations of public hearings I look to the ways in which these limitations are at least partly rhetorically imposed.

This work starts with a background discussion of the National Environmental Policy Act and a review of the Communication literature regarding public participation in NEPA decision-making. I will then outline the main theoretical and methodological assumptions that will inform my analysis of contemporary efforts to guide the communication practices present in public hearings. I will introduce Chantal Mouffe's (2000) conception of the ‘democratic paradox’ and articulate how this concept can be

used as an theoretical grounding for highlighting the rhetorical positioning of the public hearing as a participatory practice. As a case study I will offer a critical analysis of informational material produced by the Council on Environmental Quality (CEQ), the federal agency tasked with interpreting NEPA as well as writing federal regulations. A *Citizen's Guide to the NEPA: Having Your Voice Heard* (2007) is an example of the CEQ's efforts to define the scope of public participation in the NEPA and is directed at a general audience of citizens. The document is worthy of analysis because it explicitly seeks to guide social action in the arena of public participation. By analyzing the positioning of participatory practices in this document through a framework that assumes the tensions of the democratic paradox, I will discuss how these documents, in contrast to the ubiquity and perceived centrality of public hearings, exemplify a rhetorical positioning of the public hearing as a relatively marginal communicative forum. By closely examining rhetoric produced by the CEQ I aim to demonstrate that there are common, subtle, but grave misconceptions about public hearings as a participatory mode under NEPA. In conclusion I will offer 'reasonable hostility' as a corrective to currently predominant models of participatory conduct under the National Environmental Policy Act.

Public Participation in the NEPA

The National Environmental Policy Act (NEPA) was passed by the United States Congress in 1969 and signed into law on live television by President Richard Nixon on January 1st, 1970. The legislation, passed as part of a string of environmental laws of the late 60's and early 70's, has been regularly referred to as the environmental Magna Carta.

The law requires federal agencies to take a “hard look” at policy decisions that might adversely impact the environment. The law created the Council on Environmental Quality (CEQ) within the Executive Office of the President as well as the well-known Environmental Impact Statement process as a mechanism for assessing the impact of alternative policy formations and presenting that information to decision-makers in federal agencies. The NEPA has also resulted in a significant expansion of opportunities for the public to participate in environmental decision-making. According to Peterson and Feldpausch-Parker (2013), "The U.S. National Environmental Policy Act (NEPA) of 1969 is the most historically significant national law currently mandating public participation" (p. 514). The NEPA is undoubtedly the central statutory driver of opportunities for public participation in federal environmental decision-making.

The NEPA itself did not outline processes for public participation. These have primarily been promulgated by the Council on Environmental Quality (CEQ). According to Jonathan Poisner (1996), “A single statutory section embodies NEPA's procedural requirements. Section 102 requires that all federal agencies, when proposing actions that will significantly affect the environment, prepare Environmental Impact Statements (EISs)” and provide copies of the EIS to the public. "Apart from this general requirement of public disclosure, NEPA provides no guidance as to what procedures should govern the process by which the public may comment on EISs" (p. 69). The CEQ took the lead in incorporating public participation into procedures for implementing NEPA processes. With some prodding by the judiciary, but with no formal instruction from Congress, the CEQ gradually asserted authority to issue guidelines for how federal agencies should

implement the NEPA. Subsequent executive orders have made CEQ NEPA guidelines binding for executive agencies.

In cases where federal agencies find that they are legally required, they will propose an action (policy change, permit, or project) and then assess the environmental impacts of that action as well as several alternatives. The NEPA is primarily concerned with compiling and producing knowledge for the agency to consider in making a particular decision. It requires that agencies act knowingly, not necessarily environmentally. According to Martin Nie (2008) the planning process is based on a “rational comprehensive model”:

This is the ‘synoptic’ ideal in which a decision maker collects all of the information relevant to a decision, considers all alternative policies and the possible consequences of each, and then chooses the policy with the highest probability of achieving the agreed-upon goals in the most efficient way possible. In many respects it continues the Progressive Era philosophy emphasizing the science of administration as opposed to politics. (p. 171)

Modern American public lands and natural resources policy begin in the Progressive Era with Gifford Pinchot's early Forest Service and is typically focused on maximization of efficiency and of the public good by agency experts. The NEPA process culminates in a final Environmental Impact Statement and later a Record of Decision by the deciding official.

According to Walker (2006), “public participation is a broad term subject to varied approaches and interpretations” (p. 119), but explained, “At its core, public

participation is predecisional communication between an agency or organization responsible for a decision and that organization's relevant public community" (p. 115). Both the nature of that communication and the quality of public participation opportunities have, and continue to vary. Sherry R. Arnstein (1969) long ago proposed that public participation is a redistribution of power from government officials to the citizenry, and developed a "Ladder of Public Participation" to categorize degrees of power sharing (p. 119). Today, according to Peterson and Feldpausch-Parker (2013) "Essentially, public involvement still spans a broad gulf ranging from the right to know what information was used to arrive at a decision to direct participation in the decision-making process itself" (p. 515). Public hearings are frequently employed as a method of public participation that meets the minimum requirements set forth by the CEQ.

Ultimately, the challenge for public participation is to develop spaces that allow citizens to have an impact on environmental decision-making in a process that is primarily predicated on the technical and scientific comparison of various policy options. There are several policy level concerns that impact the public's ability to participate in environmental planning. First of all, many projects do not go through full NEPA review. The federal agencies have a degree of leeway in determining what projects are subject to full EIS treatment, and in some cases where the likelihood of significant environmental impacts is determined to negligible by the respective agency, they often review projects using an 'Environmental Assessment' process that includes less analysis and public participation opportunities than does full EIS review. Secondly, Congress has created the opportunity for agencies to 'categorically exclude' certain types of projects from NEPA review. For example, permits for oil drilling off the Gulf Coast have been excluded from

NEPA review by congressional action (Lopez, 2010). Also, even in cases where a full NEPA review will be performed, the transfer of decision-making power from government officials to members of the public in the NEPA processes has limits; the ultimate decision-making power always rests with a *deciding official*. That deciding official makes a decision about how the agency should move forward in addressing the “purpose and need” for the project, the goals of which have been predetermined throughout the NEPA process. These policy conditions have the effect of giving agencies a great deal of control over the public’s ability to participate in environmental decision-making.

Still, within this framework there remains the possibility of the deciding official being moved, informed, or persuaded, in a way that is consequential for the outcome of the final decision made. “Although the deciding agency retains its authority by law to make the decision (e.g., under NEPA a forest supervisor signs a record of decision), citizens can participate actively in the construction of that decision” (Walker, 2006, p. 120). The scope of decision space, or the opportunity for the public to influence the outcome of a NEPA decision-making process, is contingent upon power sharing choices by agency officials and the integration of public participation within a largely technical decision-making process.

In the next section I will show that dissatisfaction with traditional methods of public participation has led to a push toward more innovative approaches. The criticism of public hearings and the support for innovative approaches both tend to support a communicative norm of deliberation. The most common innovative approach is collaboration that seeks consensus. Collaboration entails convening a group of dedicated stakeholders in an extended and involved process of dialog with the hope that this group

can come to mutually agreed upon proposals. While these processes provide a more engaged level of participation for those willing and able to participate, they are not as accessible as traditional forms of public participation such as public hearings and comments. Both of the predominant models for integrating public participation within NEPA planning processes, consultation and consensus, fail to provide a compelling case that a broad diversity of citizen voices will be considered in a way that has any consequence on the final decision.

Public hearings and consultation

According to Daniels and Walker (2001), “The most basic format for the public participation activities conducted by natural resource agencies in the United States involves three specific activities: *notification*, *issue surfacing*, and *comment on draft decisions*” (p. 8, italics in original). Notification entails publishing announcements in the *Federal Register*, newspapers, direct mailings, and other communications required to inform the public “that an agency decision process is beginning and what the agency might know at that time about the basic structure of the decision process.” Issue surfacing is typically referred to as *scoping*. This is a stage where interested parties are engaged “to determine what their interests, goals, and concerns might be.” Comment on draft decisions is typified by public meetings, hearings, and the submission of written comment. These traditional practices of public participation are considered the bare minimum requirements under NEPA (Daniels and Walker, 2001). “By a wide margin, the most common form of public participation, from the local to the national level,

continues to be the public hearing" (Senecah, 2004, p.27). The public hearing is a centerpiece of traditional approaches to public participation.

Public hearings have been deployed in NEPA processes primarily via a consultative model. Walker (2004) distinguished traditional public participation practices (such as the public hearing) based upon a lack of power transfer, arguing that "Decision space is an important element that differentiates limited or *traditional* participation from more *innovative* and interactive participation" (emphasis added, p. 119). This framework follows Arnstein (1969) in the assumption that power-sharing— the sharing of power on the part of agency officials— and decision space— the communicative space in which to do so— are both critical in order for public participation to have a meaningful impact on agency decision-making . "Traditional public participation is consultative; its basic activities are information gathering and feedback" (Walker, 2004, p. 121). According to Wondolleck and Yaffee (2000), these traditional public participation practices "usually provide highly controlled, one-way flows of information, guard decision-making power tightly, and constrain interaction between interested groups and decision makers" (p. 104). This tightly controlled communication results in "providing an advisory rather than policy-making role for the public" (Minion et al., 2009, p. 260). Constraining public participation to this advisory role is what I have referred to as the consultative model for participatory communication; According to Walker (2004) "Consultation refers to those activities that involve parties in the environmental or natural-resource policy decision-making process without sharing any aspect of the decision itself" (p. 121). The consultative model allows agencies to engage the public's participation in environmental decision-making while maintaining a great deal of control over the process.

Communication scholars have argued that public hearings executed through the consultative model are ineffective as a venue for the public to influence agency decision-making.

The basic public participation process model has been broadly criticized as ineffective. Although formal public participation provides easy access and predictability, the disadvantages concentrate on the impact of that access. It is immaterial that a process is convenient if being involved has no effect. (Daniels & Walker, 2001, pp. 8-9)

In the communication literature on public participation it is frequently assumed that traditional approaches to public participation in NEPA, such as the public hearing, fail to meet the expectations of participants because of the lack of influence. Senecah, for example, (2004) argued that to achieve legitimacy a process must provide *access*, *standing*, and *influence* for participants. Access and standing can somewhat easily be accounted for with traditional approaches, but tight control over decision-making, and a consultative approach give no guarantee to participants that their participation will have any *influence* on the ultimate decision. Senecah notes that participants do not necessarily need for their input to be included in the final decision, but want assurances that their input will be fairly considered.

Another criticism leveraged at public hearings is that they are often used to solicit public comments after the important decisions have already been made (whether publicly or practically). Belsten (1996) called this approach to environmental decision-making "decide-announce-defend" (p. 31). According to Simmons (2007) the term refers to cases "where decisions about policy are made by the technical experts and brought to the public under the assumption that with enough information the public will agree with the decision" (p. 47). Simmons' study of a chemical weapons disposal siting process found

that "Claiming to have allowed public comment seems to have replaced the importance of the comments themselves" (p. 49). The possibility of holding public hearings as a form of pseudo-participation is at the heart of criticisms of the public hearing as a participatory mode.

In short, the environmental communication literature on public hearings and the National Environmental Policy act have has mostly considered public hearings a traditional form of public participation. As a traditional form of public participation it relies on a model of communication between the public and agencies that is consultative. Federal agencies often retain tight control over communication and decision-making process. These processes do not engender much confidence that the input of the public is likely to be consequential for decision-making and have led for some to advocate for more innovative approaches to public participation in NEPA.

Collaboration and consensus

As early as the 1980's the failures of traditional participation approaches started to create momentum toward alternatives (Peterson & Feldpausch-Parker, 2013). According to Walker (2004), innovative approaches are based on a "variety of common attributes such as multiple stages; constructive, open, civil communication, generally as dialogue; a focus on the future; an emphasis on learning; and some degree of power sharing and leveling of the playing field" (Walker, 2004, p. 123). These approaches do not assume that they will be able to accommodate the a full swath of the public, but rather "emphasize face-to-face deliberation, problem-solving, and consensus building among a

relatively small group of participants selected to represent the wider public” (Beierle & Cayford, 2003, p. 53). While not necessarily engaging all of the interested public, these approaches hope to engage a smaller group in more robust participation.

As is typical for fashionable notions experiencing a collective surge, consensus models are loosely defined. They generally purport to engender win-win outcomes, educate participants, and foster a sense of community. Although each consensus model defines success somewhat differently, all share varying degrees of commitment to mutual agreement as an end goal. (Peterson & Feldpausch-Parker, 2013, 522)

The emphasis on dialog among stakeholders is offered as a corrective to the consultative model associated with traditional forms of public participation.

It is argued that these processes will yield better results than traditional approaches. Consensus based approaches have optimistic supporters among practitioners as well as agency officials. According to Walker (2004) “Environmental planning and decision making processes that employ innovative public participation will foster both dialogue and deliberation” (p. 123).

In general, agency representatives hope that, by working collaboratively with stakeholders before decisions are made or policies are adopted, more complete information will inform the policymaker. Furthermore, mutual understanding of the issues at stake will be fostered, as will communication and trust between the parties involved. Hence, acceptable decisions will result rather than decisions that

are contested in lengthy judicial or administrative appeals processes. (Wondolleck and Ryan, 2007, p. 118)

Support for innovative approaches, such as consensus-seeking collaboration among stakeholders is based on the belief that dialog among these stakeholders will result in better and more durable decisions when the perspective of these consensus groups is considered by officials.

Environmental communication scholars have offered several critiques of these innovative processes. Some of these criticisms stem from concern with the outcomes of consensus processes. For example, Peterson et al. (2005) argued that consensus processes risk recreating the status quo through efforts to placate all participants. Other scholars have pointed to the likelihood that existing power relationships will be recreated in consensus processes allowing for more powerful entities to hold an advantage in these settings (Robbins, 2010; Smith & Norton, 2013; Toker, 2004). “We argue that true participation, even with innovative structures, often yields to powerful organized groups because of the problems of representation” Smith & Norton, 2013. p. 471). While offered as a corrective and supplement to traditional forms of public participation, these consensus processes do not serve as a model for broad based, come-all, situations such as a public hearing. While I do believe they are appropriate and useful in some circumstances these processes do not provide the average, low power, unaffiliated, but concerned citizen an increased opportunity to influence agency decision-making.

The preceding review of the environmental communication literature on public participation in NEPA demonstrates that the two most dominant models for incorporating

public participation within the largely technical decision-making processes of NEPA fail to provide a robust accounting of the communicative potential of the public hearing, nor do they provide a compelling case that citizen's voices will be of consequence. The consensus model of participatory communication does not offer a true alternative to the consultative model because it is only functionally operational within a small group environment. In order to develop a corrective model of participatory communication in NEPA is necessary to look at how the consultative model is buttressed by the rhetoric used to guide citizens in their efforts to participate in environmental decision-making. In the following section I will establish a theoretical approach to assessing this sort of rhetoric.

The democratic paradox

I argue that the incorporation of public participation within environmental decision-making models such as the National Environmental Policy act is complicated and challenging because the NEPA is emblematic of broader tensions influencing democratic decision-making in the modern liberal democratic nation state. As noted before, the NEPA sets up a decision-making process that is largely structured by technical comparison between a scientifically developed range of policy options. The CEQ has empowered both interdisciplinary teams of agency specialists as well as the public to communicate to an eventual deciding official who determines the course of agency action. The role for technical experts is consistent with scientific rationalism specifically, and the political tradition of liberalism more generally. The role for the public is rooted in democratic ideals that expect a relationship between popular

sovereignty, public opinion and governmental decision-making. The role of public participation is structured by the NEPA, but is never clearly defined. Federal environmental decision-making, according to the NEPA and the CEQ is supposed to be based on the technical analysis of experts, as well as input from the public.

Chantal Mouffe (2000) argued that the liberal and democratic traditions upon which modern liberal governance is based (and from which the participatory and technical aspects of NEPA are derived) are beset by a constituent tension. A fundamental assumption of this paper is that, while the technical dimensions of NEPA decision-making tend to eclipse the participatory, the relationships between the technical and participatory dimensions of the NEPA are always only the product of a temporary negotiation rather than a product of fixed conditions. In turn, the degree of power-sharing in particular practices of participation (the public hearing for example) is similarly open to (re)negotiation. The tensions between liberalism and democracy, and of present concern, technical and public, are what Mouffe refers to as the democratic paradox. According to Mouffe, modern liberal democracy is based on two distinct traditions.

On one side we have the liberal tradition constituted by the rule of law, the defence [sic] of human rights and the respect of individual liberty; on the other the democratic tradition whose main ideas are those of equality, identity between governing and governed and popular sovereignty. There is no necessary relation between those distinct traditions but only a contingent historical articulation. (pp. 2-3)

The logic of liberalism is predicated on the protection of human rights, and as such represents a limitation to the scope of popular sovereignty and therefore the power of the people to infringe upon those rights. “In a liberal democracy limits are always put on the exercise of the sovereignty of the people” (p. 4). For Mouffe this presents a constant tension between the two traditions that is a central aspect of modern governance.

In the case of federal environmental decision-making, I argue that the democratic paradox is exemplified in the tension between the technical and democratic decision-making elements that are goals of the NEPA. The constituent tension between liberalism and democracy is reflected in the more specific tension of concern in this work. The technical and bureaucratic nature of NEPA decision-making is rooted in a liberal ideology of utilitarianism; NEPA seeks to protect the environment for everyone and encourages the progressive era goal of rational decision-making in the pursuit of maximizing the social good. This technical decision-making by experts and specialists in the agencies serves as counterpoint to the sovereignty of the people. For example, no matter how popular a project might be with the public, federal agencies might determine that a less environmentally invasive alternative is preferable.

Thus, the tensions present in incorporating public participation in NEPA are along a particular seam in the larger quilt that must be stitched together through rhetorical negotiation in order to integrate the traditions of liberalism and democracy. These tensions can never be resolved, only navigated through negotiation. The concern of this project is the ways in which public hearings have been positioned within these negotiations and the resulting impact on opportunities for democratic environmental decision-making. I argue that the democratic paradox is relevant to discussions of

participatory decision-making because it would indicate that the political tradition of the public hearing is not inherently and easily integrated with the tradition of liberalism.

This perspective highlights the difficulty of this integration and focuses attention on the rhetorical efforts made to encourage particular approaches to managing that difficulty.

The democratic paradox is also key to understanding agonistics in that it is precisely the characteristics of democracy such as the space for agonism and dispute that are constantly under negotiation and the articulation of contingent historical articulations.

The democratic paradox is a key element of Mouffe's work that is deserving of attention.

It is vital for democratic politics to understand that liberal democracy results from the articulation of two logics which are incompatible [...] and that there is no way in which they could be perfectly reconciled. Or, to put it in a Wittgensteinian way, that there is a constitutive tension between their corresponding 'grammars', a tension that can never be overcome but only negotiated in different ways. (p. 5)

Mouffe did not argue that this democratic paradox damned or doomed liberal democracy.

Rather, she suggested that the democratic paradox is both inherent to modern democracies and provides the dynamic that keeps democracy vital. The tension between liberalism and democracy ensures that the nature of democracy (and democratic practices) remains open to contestation. According to Mouffe, "Indeed, a great part of democratic politics is precisely about the negotiation of that paradox and the articulation of precarious solutions" (p. 93). The tensions at the heart of liberal democracy are navigated through communication as rhetors seek to articulate these precarious solutions.

Communication scholars have looked to Mouffe's writing on the democratic paradox primarily as a critique of consensual politics and deliberative democracy. This

line of argumentation has focuses primarily on Mouffe's advocacy of “agonistic pluralism.” The point of agonistic pluralism is to navigate among differences rather than erase them. Not only is dissent important to prevent democracy from collapsing in upon itself, but it is also helps to facilitate the development of new ideas and unveil alternatives to current policies and perspectives (Minion et al., 2009, p.259).

Mouffe (2000) argues that from the point of view of agonistic pluralism, it is necessary to move past framing those with different political values as enemies, and come to accept them as “adversaries.” An adversary is "someone whose ideas we combat but whose right to defend those ideas we do not put into question (p. 102). These arguments have been used to support an argumentative model of public participation vis-a-vis a deliberative or consensual model. Peterson et al., (2005) argued that

This bias toward a mode of participation that privileges dissonance ironically promotes the values of tolerance and integration by directing attention toward the problem of how people in political communities might transcend themselves sufficiently to observe their own foibles while acting strategically toward one another. (p. 765)

For Ivie (2002) "Pluralistic politics, then, is foremost a matter of figuring out how a necessarily conflicted polity can bridge its divisions sufficiently for people to live together without sacrificing a healthy degree of diversity" (p, 277). Ivie's concern was with communication in the face of inevitable disagreement in political life. He advocated for an approach to politics:

That privileges a rhetorical conception of deliberation, for the modernist ideal of dispassionate and disembodied dialogue would achieve the illusion of objectivity and universal reason only by bracketing or masking relations of power, thus treating as truth something that is more appropriately understood as hegemony or empowered belief. (p. 278)

Mouffe's argumentation about agonistic pluralism has gained traction with EC scholars seeking to critique consensus and deliberation models of public participation but a broader discussion of the implications of the democratic paradox has received less attention. Peterson et al., (2007) acknowledged the democratic paradox and argued that the tensions inherent to modern liberal democracy function as a check against the excesses of either democracy or liberalism: "Liberalism's focus on the individual offers a powerful corrective to the tyranny of majority rule, while democracy's bonds of identification across diverse parties enable sufficient centralized power to make and act upon decisions" (p. 82). This argumentation has been used to buttress the defense of agonistic pluralism and has not been used to extend a rhetorical understanding of public participation and democratic governance.

Mouffe's (2000) articulation of the democratic paradox has utility for rhetorically minded Environmental Communication scholars. My argument is that in the negotiations surrounding the constituent tensions in environmental decision-making, the public hearing has been marginalized, and that as a result public hearings are not typically taken seriously as a power-sharing practice. The rhetoric surrounding public participation has had the effect of marginalizing public hearings as a form of political practice under the National Environmental Policy Act in ways that are detrimental to the appreciation of

diverse and sometimes agonistic voices as key components of decision-making in a democratic society.

A rhetorical conception of the Democratic Paradox

I believe that rhetorical theory is of assistance in explaining the processes by which these rhetorical negotiations take place. Mouffe's (2000) explanation that democratic politics is largely comprised of the negotiation of various competing "grammars" and the articulation of "precarious solutions" for the reconciliation of competing interests resonates with aspects of rhetorical theory. Mouffe leans on Wittgenstein's notion of grammar or a "network of rules which determine what linguistic move is allowed as making sense, and what isn't" (Anat and Anat, 2014). For Celeste Michelle Condit and John Lucaites (1993), this grammar or network of rules, is a rhetorical culture.

By rhetorical culture we mean to draw attention to the range of linguistic uses available to those who address a historically particular audience as a public, that is, a group of potentially disparate individuals and subgroups who share a common interest in their collective life. [...] In this rhetorical culture we find the full complement of commonly used allusions, aphorisms, characterizations, ideographs, images, metaphors, myths, narratives, and topoi or common argumentative forms that demarcate the symbolic boundaries within which public advocates find themselves constrained to operate. (p. xii)

For these rhetorical scholars, as well as for Mouffe, there are limits in the range of possible language for expressing an ideology. Mouffe (2000) highlights the rhetorical nature of the democratic paradox thesis.

Indeed, I see the 'agonistic pluralism' that I have been advocating as inspired by a Wittgensteinian mode of theorizing and as attempting to develop what I take to be one of his fundamental insights: grasping what it means to follow a rule. (p. 71)

I believe that bringing Mouffe into conversation with established rhetorical theory is the next step in leveraging Mouffe's insights for the project of improving public participation opportunities.

Rhetorical theory is informative on this front. According to McGee (1980) "social control in its essence is control over consciousness, the *a priori* influence that learned predispositions hold over human agents who play the roles of 'power' and 'people' in a given transaction" (pp. 5-6). These "learned predispositions" are the substance of rhetorical culture. He continued that "Human beings are 'conditioned,' not directly to belief and behavior, but to a vocabulary of concepts that function as guides, warrants, reasons, or excuses for behavior and belief." It is important to recognize that rhetorical culture is consequential for power-sharing, and for negotiating a role for public participation in environmental decision-making. Rhetorical culture is simultaneously constricting for both citizens and agents of power, but also contains the element of possibility for the reorganization of relations of power, the articulation of novel approaches to tempering the democratic paradox, and of reclaiming a legitimate role for the practice of public hearings. According to Condit and Lucaities (1993), the reorganization of the rhetorical also creates movement in democratic relationships. For

example, "case law might privilege one interpretation [...] for a time, but laws are always open to reinterpretation and change when advocates craft new ideologies or invent new and compelling usages of the components of the rhetorical culture" (p. xv).

The degree of power-sharing in environmental decision-making is a product of negotiations in which rhetors draw upon the rhetorical culture to articulate solutions to the democratic paradox. Because the language, myths, ideographs, et cetera, that rhetorically position the public hearing are "are abstractions, and thus lack any rigidly defined meaning, creative rhetors craft their meaning-in-use as they employ them in public discourse to persuade audiences of the public nature of historically specific beliefs and actions" (Condit and Lucaities, 1993, p. xii-xiii). Rhetorical culture is the guiding force in the negotiation of the systems of power that is necessary to mediate the tensions between the liberal and democratic traditions as well as the technical and participatory aspects of the NEPA.

I take inspiration for how to leverage these insights from Robert Ivie's work "Rhetorical deliberation and democratic politics in the here and now" (2002). Like other communication scholars, Ivie proceeds from an articulation of Mouffe's agonistics, but does so from the perspective of rhetoric. Ivie argues that American political culture maintains a hesitance toward "rowdy" deliberation of the sort that agonistic pluralism encourages. "Indeed, this wariness toward democracy is so deeply embedded in U.S. political culture that it must become a subject of rhetorical reconstruction in order to enhance participatory politics" (p. 279). My thinking on the public hearing is similar, and predicated on the understanding that particular practices of democracy are positioned by negotiations over the content and character of the rhetorical culture.

My theoretical lens draws on Mouffe and is contextualized by American rhetorical theory. I work from the understanding that the democratic paradox can only be navigated by rhetorical negotiations. The public hearing, rather than being a fixed, or “traditional” form of public participation in NEPA is subject to change based on the operations of language within the rhetorical culture. In order to make this argument I rely on an analysis of a document produced by the CEQ in order to highlight the types of rhetorical moves at play in the positioning of the public hearing as a practice.

Marginalizing public hearings: the public rhetoric of the CEQ

The opportunities for public participation in NEPA analysis are predicated on the guidelines and guidance of the CEQ, and ultimately dependent on how NEPA is implemented by federal agencies. In an effort to take a hard look at the role that public hearings play in the discourses of public participation in NEPA, this paper analyzes informational material produced by the Council on Environmental Quality (CEQ), the federal agency that is tasked with interpreting the NEPA as well as writing federal regulations for NEPA implementation. *A Citizen's Guide to the NEPA: Having your Voice Heard* is a text that provides a particular articulation of a solution to the tensions inherent to integrating a technical process of assessing environmental risk with public participation opportunities. The *Citizen's Guide* was published in 2006 and represents a departure from previous CEQ publications about NEPA in that it is directly intended as a resource for the public. Whereas it is typically assumed that public hearings are a central and "traditional" method of incorporating public participation into the NEPA process, this

document minimizes emphasis on public hearings and casts them as a marginal forum for public participation.

The *Citizen's Guide* gives a detailed overview of the NEPA analysis process and lends most of its attention to articulating the stages an agency will go through when developing an Environmental Impact Statement or Environmental Assessment. The opportunities for public participation are presented as a consultative role. The Citizen's Guide addresses its audience in the familiar, second-person "you," and constructs the citizen participant as a person that can be of assistance to the federal agency performing the analysis and making an environmental decision:

The environmental review process under NEPA provides an opportunity for you to be involved in the Federal agency decisionmaking process. It will help you understand what the Federal agency is proposing, to offer your thoughts on alternative ways for the agency to accomplish what it is proposing, and to offer your comments on the agency's analysis of the environmental effects of the proposed action and possible mitigation of potential harmful effects of such actions. (p. 1)

This makes clear that the citizen occupies a consultative role. The Guide articulates the role of the citizen participant both by establishing the consultative relationship, and by focusing on the procedural responsibilities of the agencies.

The attention given to particular participatory practices in the text is quite minimal, and public hearings receive no special emphasis. Public hearings are mentioned only twice in the thirty pages of text directing individuals on how to participate in NEPA

analysis. The two stages of the NEPA process that require opportunities for public involvement are addressed. The CEQ informs that "Video conferencing, public meetings, conference calls, formal hearings, or informal workshops are among the legitimate ways to conduct scoping" (p. 14). In the second instance of reference, the document explains that "During [the comment period following the publication of the draft EIS], the agency may conduct public meetings or hearings as a way to solicit comments" (p. 16). In both cases public hearings are simply offered as an allowable option that the agency may utilize for consulting the public. The Guide does not provide any insight into how a citizen could participate in a public hearing. Despite the lack of emphasis on particular communicative forums such as public hearings, the Guide provides general advice for providing information to agencies.

In A Citizen's Guide to the NEPA the CEQ makes a repeated case for being involved early in the process. The document notes that:

The scoping process is the best time to identify issues, determine points of contact, establish project schedules, and provide recommendations to the agency. The overall goal is to define the scope of issues to be addressed in depth in the analysis that will be included in the EIS. (p. 13)

The emphasis on the scoping process suggests that the decision space becomes relatively lower later in the process and during the comment period stage. The suggestion that "Citizens who want to raise issues with the agency should do so at the earliest possible stage in the process" reinforces that interpretation. The CEQ explains that "Agencies are much more likely to evaluate a new alternative or address a concern if it is raised in a timely manner" (p. 26). The public hearing's importance is diminished by encouraging a

more committing and challenging degree of participation. For example, the *Guide* claims that "Some of the most constructive and beneficial interaction between the public and an agency occurs when citizens identify or develop reasonable alternatives that the agency can evaluate in the EIS" (p.14). By emphasizing early, and long term involvement in the NEPA process the CEQ tacitly indicates that opportunities in later stages of the process provide minimal power-sharing.

The *Citizen's Guide* also makes clear that in order for citizen input to be of consequence it must be tailored to the technical assessment process at the heart of the NEPA. Citizens are encouraged to submit either reasonable alternatives and/or substantive comments. "Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and use common sense, rather than simply desirable from the standpoint of the applicant" (p. 16). This hints at the difficulty and technical nature of participating in NEPA process which is later confirmed when the CEQ notes that "Being active in the NEPA process requires you to dedicate your resources to the effort. Environmental impact analyses can be technical and lengthy" (p. 23). Further indicating the technical and time commitments necessary to produce consequential input, the CEQ suggests forming "study groups" and enlisting "local experts such as biologists or economists at a university" (p. 23). These directives suggest that citizen input must achieve a status of technical competence in order to be considered consequential to the decision-making process.

The Citizen's Guide also addresses the types of participation that will be taken seriously. Comments will be judged as to whether or not they are "substantive" and agencies are only required to respond to such comments. In a section entitled "How to

Comment" (p. 27) the CEQ identifies guidelines for communication and emphasizes the formal, technical, and written nature of effective comments. According to the CEQ,

"Comments may be the most important contribution from citizens. Accordingly, comments should be clear, concise, and relevant to the analysis of the proposed action."

This immediately makes clear that public hearings are not of considerable importance and reinforces the contrast between a thoughtfully composed written comment and typical spoken language. Additionally, in contrast to the public display of emotion that might be anticipated in a public hearing, the CEQ suggests that:

As a general rule, the tone of the comments should be polite and respectful.

Those reviewing comments are public servants tasked with a job, and they deserve the same respect and professional treatment that you and other citizens expect in return.

This attention to the character and tone of written public comments makes is an attempt to encourage dispassionate written comment.

The Citizen's Guide section on commenting has the effect of emphasizing the technical nature of the decision-making process and puts forth a 'rational comprehensive' model for the inclusion of citizen voices in that process.

Comments that are solution oriented and provide specific examples will be more effective than those that simply oppose the proposed project. [...] In drafting comments, try to focus on the purpose and need of the proposed action, the proposed alternatives, the assessment of the environmental impacts of those alternatives, and the proposed mitigation. (p. 27)

These recommendations make clear that consequential public participation is restricted to comments that assist the agency and, that are focused on the proposed action rather than voices that oppose the project or disagree with the assumed need for the project or action. The Guide further explains that the NEPA public participation is not interested in citizen preference.

Commenting is not a form of “voting” on an alternative. The number of negative comments an agency receives does not prevent an action from moving forward. In addition, general comments that state an action will have “significant environmental effects” will not help an agency make a better decision unless the relevant causes and environmental effects are explained. Finally, remember that decisionmakers also receive other information and data such as operational and technical information related to implementing an action that they will have to consider when making a final decision. (p.27)

The focus on written, dispassionate, and technical communication strongly indicates that public hearings, oral communication, and agonistic communication are marginal in terms of effect on agency decision-making.

Analysis

From the perspective of the field of environmental communication, the CEQ’s rhetoric on public participation attaches the public hearing to the consultative model in a way that is unlikely to satisfy the public’s desire for meaningful participation in environmental decision-making. Susan Senecah, drawing on her extensive experience as

a public participation practitioner, has developed a set of normative values for public participation that she argues must be met in order to satisfy the public and to prevent alienation and conflict (2004). Senecah contends that the public desires *Access, Standing, and Influence* in environmental decision-making. "The general TOV theory holds that the key to effective process is an ongoing relationship of trust building to enhance community cohesiveness and capacity, and results in good environmental decisions" (p.23). The Trinity of Voice, outlines a three-pronged approach to assessing public participation process, and is of use when considering the consequences of constraining the public's participation to a consultative capacity.

Senecah's first concern is with access, the raw ability to participate; access requires both a forum for participation as the capacity to do so.

In its simplest form, it means that I have access to sufficient and appropriate opportunities to express my choices and opinions, but it is more than this. It means that I have the opportunity to access sufficient and appropriate support, for instance, education, information, so that I can understand the process in an informed adaptive capacity, not as a reactionary. (p. 23)

The *Citizen's Guide* makes a compelling case that the public may gain access to participate in the NEPA process. It explains the opportunities for comment, though cautions that assessing the technical nature of environmental decisions can be difficult. The *Citizen's Guide* encourages access by articulating how the public can participate in NEPA.

The *Citizen/s Guide* has a more problematic relationship to the goal of standing. While NEPA processes might typically provide access, Senecah cautions:

Keep in mind, however, that taking the opportunity to submit written or oral comments at a public hearing, for example, is a practice of access. It puts me in a place where I might have standing, but simply having access does not assume that my comments will be given standing (p. 24).

Standing in a participatory process is distinct from the legal sense. "It is the civic legitimacy, the respect, the esteem, and the consideration that all stakeholders' perspectives should be given" (p. 24). The *Citizen's Guide's* directives for technical, civil, and dispassionate communication by the public express that there are limitations placed on the perspectives that will be considered in the decision-making process. Voices that do not fit within the bounds of accepted discourse will be excluded. The *Citizen's Guide* does not make a compelling case that a diversity of voices will find standing in the NEPA process.

Influence builds upon access and standing and represents the ultimate goal of citizen participants. Influence does not mean that a participant gets their way, but that their contribution will be thoughtfully considered. Absent the conditions of access and standing, citizens will not feel like they have had influence on the process. Senecah argued that there are consequences when processes fail to meet the expectations of participants. Individuals denied access, standing, or both, "will become frustrated, angry and increasingly antagonistic and aggressive" in their efforts to reclaim space in which to achieve them (p. 25). "The disparity between expectations and experience will make me angry, skeptical, and distrustful. Without the civic legitimacy of standing, I certainly

have little expectation of influencing an outcome" (p.24). The *Citizen's Guide's* greatest rhetorical success may be in managing the expectations of participants when directing them toward certain forms of communicative behavior. Ultimately though, readers of the *Guide* are unlikely to feel assured that a broad diversity of voices will be thoughtfully considered in NEPA public hearings.

Implications

The preceding evidence shows how rhetoric can be wielded to either emphasize or minimize particular participatory practices. By articulating a consultative approach to public participation opportunities in the NEPA, I believe that the rhetoric of the CEQ reveals that the degree of power sharing possible within the performance of a particular participatory practice is not inherent, but is contingent upon the articulation of historically specific solutions to the problem of navigating the democratic paradox. This would indicate the public hearing does not exist in some *a priori* form and instead requires a rhetorical effort to position it among the array of participatory practices. Rhetorical efforts such as the *Citizen's Guide* show that the public hearing is marginalized vis-a-vis the practice of submitting written comments.

The assumption that limitations to participatory opportunities are inherent to the particular participatory practice, rather than the specific circumstances in which the practice is employed, diverts attention from how the rhetoric of participation encourages or discourages citizens from various forms and tones of engagement. The traditional-versus-innovative distinction between participatory practices aligns the public hearing

with a consultative approach to incorporating public participation and ignores the historically specific nature of the public hearing as it has been practiced as a component of NEPA planning processes. Labeling public hearings as traditional is not necessarily inaccurate, but casting the practice as a baseline within the consultative model freezes the practice; it suggests that the public hearing is not subject to innovation, limits opportunities for improvement, and sets exceptionally low expectations for the participatory capacity of citizens. When public hearings are compared with innovative practices that are seemingly untethered from the consultative model of participation they naturally appear inferior.

Providing a better model of participatory communication in public hearings requires divorcing criticism of participation practices from fixed conceptions of the nature of those practices. By framing public participation within Mouffe's conception of the democratic paradox it is possible to read in the CEQ document analyzed above a specific articulation of the role of the public meeting. It is simply not reasonable to assume that any particular articulation expresses an essential form of practice. Only by recognizing that the opportunities for public participation are the product of negotiating deep, inherent, tensions does it become possible to disassociate practices such as the public hearing from limiting articulations such as the consultative approach to public participation that is promoted in the *Citizen's Guide*.

The *Citizen's Guide* emphasizes a particular approach to public participation in the NEPA by directing the public to participate in a consultative capacity. This makes clear that alternative modes of communication made by the public will be dismissed in

the decision making process. The explicit constraints on conflictual voices from the public can themselves be a cause of conflict.

While the role of public hearings in NEPA is often taken for granted, the CEQ document discussed here demonstrates that particular articulations of public participation have the effect of minimizing the importance of some forms of participatory practice while emphasizing others. *The Citizen's Guide* emphasizes the development and submission of reasonable alternatives and substantive comments in written form while devaluing the role of public meetings. Despite their ubiquity, the particular articulation of public participation provided by the CEQ positions the public hearing as a marginal forum for providing citizen input. The CEQ's solution to the tensions inherent in appending public participation to an otherwise bureaucratic and technical process relies on relegating citizens to a consultative role where the influence of citizens comes solely from transmitting useful information to the agency. The CEQ explains that "the information you provide during the EA and EIS process can influence the decision-makers and their final decisions because NEPA does require that federal decision-makers be informed of the environmental consequences of their decisions" (p.7). *The Citizen's Guide* to the NEPA indicates that public hearings are a marginal avenue for influencing these decision-makers via rhetorics that fail to conform to this consultative purpose.

Public hearings executed under the synoptic model of decision making and the consultative model of communication have largely failed to result in diverse participation and the expression of a wide range of voices.

Broad public participation generally does not occur under NEPA. When public hearings are held, only those who have particularly strong interests in the decision

usually attend. Once again, the synoptic format causes part of the problem. [...] Many groups would like to participate, but lack the resources to develop sufficient expertise. Nor does the public involvement process offer inducements to overcome the barrier of complexity. To the contrary, NEPA public involvement efforts tend to go after the usual suspects, leading to public hearing attendance only by those with particularly strong interests in a decision and further exacerbating the tendency of such hearings to devolve into antagonistic theater. (Poisner, 1996, p. 92)

Senecah (2004) argues that as a result, public hearings are often a flashpoint for conflict. Due to the failure of these approaches there exists a clear need to explore alternative models for communication in public participation settings.

As the previous review of the environmental communication literature shows, there has been a push from many in the academic community for public participation opportunities based on dialog, deliberation, and consensus building as an alternative to the consultative approach. The review of the literature also shows that public hearings are not considered to be appropriate venues for pursuing these alternative models of participation. According to Karen Tracy (2010):

A recent review of empirical research on ‘public deliberation, discursive participation, and citizen engagement’ specifically rules out public [hearings ...] as sites that could be counted as deliberative. In the burgeoning ‘deliberative democracy’ movement that seeks to bring citizens’ voices more fully into the political process [...] there is a strong assumption of the need for and desirability of face-to-face conversational groups. (p. 197)

In Tracy's view, the criticism of public hearings by those advocating for deliberation is at some level unfair and that "charges that citizens lack voice often seem little more than indictments of public meetings for not functioning as small discussion and decision-making groups" (p. 199). In a world in which public hearings continue to be a common method of public participation in NEPA it is clear that deliberation cannot function as an exhaustive model for communicative behavior in public participation processes.

The models of consultation and deliberation not only fail to adequately provide guidance for the communicative conduct of citizens in public hearing situations, they additionally fail to account for the necessity of opportunities for the expression of agonism. When advocates for innovation in public participation exalt the primacy of rational discourse and the belief that such forms of communication can result in consensus among small-group decision making bodies they repeat the expectation that citizen voices conform to a style of communication that excludes anger, emotion, outrage, and other rhetorics that might reasonably be expected in a public hearing environment. While I am supportive of efforts to encourage citizens to engage in deliberation and dialog with one another and with agency officials, I believe the promotion of this model often recreates the marginalization of public hearings. These models, or norms for communicative conduct, do not provide compelling guidance for how a participant might express the full breadth of reasonable responses to environmental decisions that federal agencies must make.

This leads to my suggestion that Mouffe's "democratic paradox" has utility for understanding the conditions that might arise to allow for more satisfying public participation opportunities for a broader array of citizens. As mentioned before, Mouffe's

plea for the necessity of agonistics in democratic debates has found application in field of environmental communication. I believe that incorporating the theoretical assumptions of Mouffe's position, and recognizing that the negotiation of constituent tensions is at the heart of democratic discourse, opens up new possibilities for cross-fertilization between Mouffe's theory and rhetorical scholarship. Recognizing that rhetorical culture is the resource drawn upon for articulating temporary solutions to the democratic paradox has the effect of situating practices as expressions of these negotiations and also illuminates the possibility of rhetorical invention. Framed in this way, new articulations appear possible and the role of public hearings as a participatory practice once again appears contestable.

Given the failure of prevalent norms of communicative conduct in public hearings, it is necessary to consider what can be done to establish norms for the public hearings that continue to be a common practice. Ivie (2002) argued for approaching the rhetoric of citizens in a manner that “promotes democratic practice immediately—in the here and now—rather than postponing it indefinitely into a hypothetical future” in which citizens are universally capable of deliberating rationally. Ivie’s call directs attention to an immediate need to for humanities scholars to aid in the promotion of norms of communicative conduct that provide guidance for citizens seeking to participate in NEPA and that are respectful of the need for space for agonistic responses.

Conclusion

I believe that the work of Karen Tracy, a discourse analyst, provides an example for both scholarly inquiry as well as direction for the kind of communicative models that scholars might promote. Based on observations of school board meetings as instances of

“ordinary democracy,” Tracy proposed a norm for citizen communication in those public forums: “reasonable hostility.” Tracy offers ‘reasonable hostility’ as a norm for communication in these forums because “If ordinary democracy is to be strengthened, we need a communicative ideal that takes the public meeting format seriously” (p. 199). Tracy’s goal is to present a model for public forums related to governmental decision making that is both attentive to the multiple aims of participants but that provides guidance for the communicative actions of participants.

According to Tracy:

Reasonable hostility is a norm for communication conduct that seeks to honor the importance of respectful talk as it simultaneously legitimizes the expression of outrage and criticism. Reasonable hostility, as I define it, is an expression of anger that most people would judge to be reasonable. It is emotionally marked, critical commentary about another's actions that matches the perceived wrong to which it responds. Whereas people are intimately connected to their ideas, and emotion and argument are expressed together, the idea of reasonable hostility captures how people actually talk (Tracy, 2010, p.203).

While it is important to remember that reasonable hostility is but one form of communication that can be cultivated in public hearings, I believe it is critical that it not be excluded in either theory or practice.

Tracy’s turn to reasonable hostility is rooted in skepticism of models that seek to exclude agonism from public participation. Both consultation and deliberation, as models of communication, emphasize civil discourse. Deliberation places an emphasis

on rational communication. Similarly, the analysis of the *Citizen's Guide* shows that efforts to promote consultation rest on appeals to civility. According to Tracy (2006) "If at times a lack of civility is a problem in public life, an equally compelling problem is a disenfranchised, uninvolved citizenry (p. 202). Senecah's Trinity of Voice suggests that this kind of alienation experienced by citizens is reinforced by processes that exclude standing for voices that fail to conform to norms of civil discourse. Tracy's work recognizes this apparent contradiction between the theory and practice of democratic participation: "The right of citizens to express outrage is a central part of just about any notion of democracy. Yet the norm of conduct for public life that most frequently is espoused is civility" (Tracy, 2011, p. 174) It seems likely that processes that actively prevent or ignore alternative expressions beyond deliberative or consultative communication and suppress the ability to articulate the kind of outrage that Tracy highlights will ultimately result in additional conflict.

Creating satisfactory opportunities for the average citizen to participate in NEPA planning processes requires a model of communicative conduct that is attentive to the range of motives and voices that might reasonably be expressed in these forums. By recognizing the multiple purposes of citizens engage in ordinary democracy, it might become possible to prevent the escalation of conflict by those who feel their voices are marginalized in these processes. According to Tracy:

With an appreciation of the multiple purposes of ordinary democracy, Americans might change their assessment of democracy; they might not only favor it but also believe that it can work and accomplish good things (p. 200).

I believe that it is worth considering reasonable hostility as a model for celebrating the value of public hearings as a participatory practice in environmental decision making.

Recognizing public hearings as a potential site for the expression of reasonable hostility creates a more reasonable standard for communication in those sites than does the consultative model. I call for practitioners and agency officials to back away from the active suppression of hostility in public participation practices, such as seen in the *Citizen's Guide*, and to recognize public hearings as a relatively safe space for reasonable hostility to be expressed among the diversity of citizen voices. Tracy (2011) acknowledges that the embrace of reasonable hostility in public forums is challenging for government officials.

Reasonable hostility does not mean any and every kind of hostility. Some expressions of hostility are unreasonable. But it is important to recognize that almost any passionate, angry comment will be seen by its target as a rude and disrespectful attack. Remarks that accuse others of incompetence or immorality are by definition hostile (Tracy, 2010, p. 203).

Agency officials are likely to feel the brunt of criticism and are the individuals who would most need to adapt to an increased volume of hostility.

Nevertheless, recognizing multiple aims beyond the transition of technical information from citizenry to agency, or the development of consensus proposals, brings the possibility of rehabilitating the image and function of public hearings. According to Tracy, "It is [the] multiplicity of aims that makes determining the right communicative conduct so difficult. We need communicative ideals that take seriously the need for

participants to give attention to multiple goals. Reasonable hostility does just that” (p. 207). Public hearings should not be judged solely by the presence or lack of deliberation, but should be celebrated for providing space for a large range of democratic communication, including reasonable hostility.

Through the application of theory and research, scholars can be of assistance to practitioners and agency officials by helping to set normative goals for participatory communication while acting to maintain space for agonistic expression. By closely examining rhetoric produced by the CEQ I have sought to demonstrate that there are subtle, but grave misconceptions about public hearings as a participatory mode under NEPA. There is an intellectual need for a picture of public hearings that is both honest regarding the opportunity to directly influence public policy while celebrating their potential as a democratic communicative space. Public hearings might remind us that speaking in the public sphere fulfills a number of democratic functions in addition to deliberation and the pursuit of consensus. Public hearings represent a space for agonistic rhetoric and dissent that ought to be preserved. As practices of public participation in NEPA evolve it is important to preserve a space for public voice in all of its messy, cacophonous splendor.

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