10 Steps to Better Regulatory Submittals

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Background

*Construction Quality Assurance Engineer, Construction Manager, and Civil / Geotechnical Engineer*

- Waste Containment Facilities in the Western United States and Internationally.
- Worked with Local, State, and Federal Regulatory Agencies.
- 3.5 Years as a Solid Waste Permitter for the Colorado Department of Public Health and Environment (CDPHE).
What is a Better Regulatory Submittal?

“A better regulatory submittal is a submittal that is well-organized, well-written, and meets the needs of the project, the client, the consultant, and the regulatory agency.”

How Does One Prepare a Better Regulatory Submittal?
Agenda

1. Know the Appropriate Regulations.
2. Talk with Your Client.
3. Know the Site/Project.
4. Talk with Your Regulatory Representative(s).
5. Talk with Your Internal Team.
6. The Elements of Style.
7. Prepare the Draft.
8. Perfection versus Sufficient to the Task.
9. Revise and Re-Write.
10. Review and Ship the Final Submittal.
Agenda (Continued)

Examples I've Seen

Summary

Q & A

End It
Case History #1 – CQA Report

- Landfill Expansion Construction Quality Assurance (CQA) Project in Nebraska:
  - Nebraska Department of Environmental Quality (NDEQ) Approval Letter dated 27 June 2005.

- Quote from the Letter:
  - “We are pleased that the CQA Report was extremely well written and organized which expedited our review.”

- Takeaway: Start with a good template.
Case History #2 – Revised EDOP

- Fully Updated and Revised Engineering Design and Operations Plan (EDOP) in Colorado:
  - Previous Version, with Numerous Amendments, dated 1996.
  - Revised EDOP, dated 2012.

- Owner/Operator, Consultant, and CDPHE Worked Together:
  - When draft EDOP was ready, Owner/Operator, Consultant, and Permitter met to discuss.

- Takeaway: It’s all about the team work!
Why This is Important

- **Time is Money!**
- **Shorter Regulatory Reviews:**
  - Less Client Cost.
  - Shorter Schedule.
- **Better Client Service:**
  - More Potential Future Work:
    - Existing Client.
    - Future Clients.
Why This is Important (Continued)

- New Landfill Cell Construction Quality Assurance (CQA) Report Example:
  - Prepare CQA Report as you go =
    Less post-construction preparation time =
    Earlier Submittal.
  - More Review Time =
    Better submittal =
    Less regulatory agency review time =
    Less cost to your Client.
Why This is Important (Continued)

- Less Consultant time responding to review comments and revising the CQA Report accordingly = Less cost to your Client.
- New landfill cell is operational sooner = Tipping Fees are coming in the door earlier!
- Finally, when it's a Compacted Clay Liner (CCL), time is of the essence...
Why This is Important (Continued)

- **Takeaways:**

  *Everybody* wins when the submittal is reviewed and approved quickly.

  **Time is Money!**
Step 1 – Know the Appropriate Regulations

Hazardous Materials and Waste Management Division – Colorado’s Solid Waste Regulations:

Step 1 (Continued)

Other Relevant Regulations:
- Air Pollution Control Division.
- Water Quality Control Division.
Step 1 (Continued)

Knowing and Understanding the Regulations is Critical to Good Client Service.
Step 2 – Talk with Your Client

- Talk Details with a knowledgeable Client.
- Educate a less-knowledgeable Client.
- Let your Client know what to expect.
Step 3 – Know the Site

Site Knowledge is Important, Useful, and Invaluable:

- Visit the CDPHE Records Center (in person, or on line).
- Visit the Site, with the Client.
- Talk to the “Boots on the Ground.”
- Talk to the Keeper of the Files.
Step 4 – Talk to Your Regulatory Representative(s) = Know Your Audience

Establish a Relationship:

- Learn the Site from the Permitter and Inspector.
- Talk over the nuances of the Regulations.
- Talk over the various guidance documents.
- Try to Achieve a Shared Vision for the Site.
Step 4  (Continued)

Solid Waste Guidance:

- QA/QC Plans for Solid Waste

*CDPHE, 2010*
Step 4 (Continued)

- CQA Reports ("Concerning Solid Waste Site and Facility Engineering Design/As-built Documents").
Step 4 (Continued)

Step 4 (Continued)

- Waste Impoundments
Step 4 (Continued)

- Financial Assurance
Step 4 (Continued)

- Groundwater Reporting

CDPHE, 2013
Step 4  (Continued)

- Composting
  (“Guide to Colorado’s Composting Regulations”).
Step 4  (Continued)

A Few Regulatory Pet Peeves:

- Electronic Submittals.
- Immediate Review.
- Thorough/Complete Submittals.
- CDPHE is not the Grammar Police, but...
Step 4 (Continued)

- Classic Conflict:
  - Owner/Operators Like Flexibility in EDOP.
  - CDPHE Likes Details (Accountability).
    - Example: How and When to Cover CCL.
- Groundwater Reports:
  - Laboratory Data Not Validated.
  - Groundwater Statistics Not Done Well.
Step 5 – Talk with Your Internal (Consultant) Team

Plan the Work, Work the Plan:

- Schedule.
- One Point of Client Contact, when possible.
Step 5 (Continued)

Case History #3 – Colorado E&P Site.

- Talked in general with the Permitter prior to document submittal.
- Had to revise and re-submit after Permitter’s review.
- **Takeaway**: Should have talked specifics with Permitter.
“Good writing is good editing.”

—Various.
“A better regulatory submittal is a submittal that is well-organized, well-written, and meets the needs of the project, the client, the consultant, and the regulatory agency.”

How Do We Get There?
Step 6 – *The Elements of Style*

Get, read, know, and **use** this book:

Step 6 (Continued)

Another useful book:

Step 7 – Prepare the Draft

You’re Professionals:

- You know what you’re doing, and, usually, what you’re writing about.
- So, write first, think (re-write) later.
Step 8 – Perfection vs. Sufficient to the Task

The Classic Consultant Conflict:

- We strive for perfection.
- We understand that we’re human.
- Ultimately, we achieve the submittal that is the best possible based on:
  - Available time and resources.
  - Available information.
  - Addressing unknowns as well as we can.
Step 9 – Revise and Re-Write.

Case History #4 – “Captain Blood.”

- *Captain Blood*, a 1922 novel by Rafael Sabatini.
- *Captain Blood*, a 1935 motion picture starring Errol Flynn, Olivia de Havilland, and Lionel Atwill, based on the novel.
Step 9 (Continued)

Case History #4 – “Captain Blood.”

- “Captain Blood” a nickname for the CQA Engineer at a Superfund Site in Colorado.
- Business, not personal.
- Better submittal preparer.
Step 9 (Continued)

Revise / Re-Write.

Every first draft needs help!
Step 10 – Review and Prepare the Final Submittal

We’re all human.
So, we review.

- Another useful book (in part, about being human): *To Engineer is Human* (1992), by Henry Petroski.
Let it Ride.

- When possible, let your document sit for a day or two.
- Even overnight can be enough.
- Perhaps allow for such time in the schedule.
- This allows you to gain some perspective before reviewing.
Step 10 – Review and Prepare the Final Submittal

Read it Out Loud, to Yourself!
Examples I’ve Seen

(Some names changed to protect the innocent.)
Examples: How We Put Words Together

Example 1:

- “The X Method provided the lowest (thus most conservative) values compared to the Y and Z Methods, and is recommended as the sole standard method for predicting the Outcome by the Organization’s panel of experts.” [35 Words]
How We Put Words Together (Continued)

Better?

- “The X Method provided the lowest (thus most conservative) values compared to the Y and Z Methods, and the Organization’s panel of experts recommends the X Method as the sole standard method for predicting the Outcome.” [36 Words]
How We Put Words Together (Continued)

Example 2:

- “A Cat D8 dozer was used by the contractor for the purpose of ripping the borrow area before scrapers were used by the contractor to excavate the in-situ soil from the borrow area and future landfill cell site.” [38 Words]
Better!

- “The contractor used a D8 dozer to rip the borrow area prior to using scrapers to excavate the future landfill cell.” [21 Words]
Summary

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Summary

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8. Perfection versus Sufficient to the Task.
9. Revise and Re-Write.
10. Review and Ship the Final Submittal.

Examples I’ve Seen.
References

Colorado Solid Waste:

- Solid Waste Regulations:
  - [https://drive.google.com/file/d/1nV3TG7KEqCFH9eqKGFGV06mh_yT41lR0/view](https://drive.google.com/file/d/1nV3TG7KEqCFH9eqKGFGV06mh_yT41lR0/view).

- Solid Waste Disposal Act:

- Solid Waste Guidance:
  - [https://www.colorado.gov/pacific/cdphe/swguidance](https://www.colorado.gov/pacific/cdphe/swguidance).
The Elements of Style:


References (Continued)

**On Writing Well:**

**To Engineer is Human:**
  - [https://www.amazon.com/Engineer-Human-Failure-Successful-Design/dp/0679734163/ref=sr_1_1?keywords=to+engineer+is+human&qid=1568907364&s=gateway&sr=8-1](https://www.amazon.com/Engineer-Human-Failure-Successful-Design/dp/0679734163/ref=sr_1_1?keywords=to+engineer+is+human&qid=1568907364&s=gateway&sr=8-1).
Questions?

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Thank You!