



THE WILDERNESS SOCIETY

NEPA Modernization (CE)
Attn: Associate Director for NEPA Oversight
722 Jackson Place NW
Washington, DC 20503

December 1, 2006

Dear Associate Director,

This letter is directed to the CEQ request for comments on the proposed Guidance on Categorical Exclusions under NEPA. These comments are submitted in addition to the comments we filed jointly with the Natural Resources Defense Council (NRDC) and a number of other organizations. They provide more detail on specific sections of the proposed guidance.

As we are sure you are aware, federal agencies are under intense pressure to perform with increasingly limited staffs and budgets. This pressure leads many agencies to focus only on those actions that are required, leaving aside actions that are merely recommended. Yet many of those recommendations could save valuable time and money to the agency itself, other involved agencies and the public had they been implemented. We believe many of the recommendations in the proposed guidance fall into this category. Changing some of these recommendations to requirements could aid in agency performance, accountability and work flow under NEPA. We believe the following changes in the guidance should occur.

Section III

In Section III B, we recommend that the sentences “The Federal agency *should* maintain an administrative record...” and “The agency *should* also summarize...” should be changed to “The Federal agency *shall maintain and make available to the public* an administrative record...” and “The agency *shall* also summarize...” As the letter we filed jointly with the NRDC makes clear, substantial case law exists on agency needs for such an administrative record. Making that requirement clear in this guidance will save time and resources later by avoiding legal proceedings to compel agency action.