

CQ359

2092 Heritage Oaks  
Las Vegas, NV 89119  
September 11, 2002

NEPA Task Force  
P.O. Box 221150  
Salt Lake City, UT 84122  
(801) 517-1021

Dear Sir or Madam:

I am providing comments on your efforts to improve and modernize NEPA analyses and documentation and to foster improved coordination among all levels of government and the public. Shortly after the National Environmental Policy Act (NEPA) became law and the Council on Environmental Quality (CEQ) sought comments on the Environmental Impact Statement (EIS) process, I provided comments. Over the years, I have reviewed, and commented on, a variety of NEPA documents and actions by a number of federal agencies. I am a private citizen who has volunteered with a number and variety of non-profit organizations to preserve and improve our environment. I strongly believe the NEPA and related regulatory requirements are the foundation for making decisions and taking actions that will protect our environment. While there are a number of environmental laws and numerous regulations that are intended to protect our environment, I consider the NEPA to be the most important and fundamental. The NEPA was intended to open up the decision-making process to include a variety of stakeholders and to hopefully allow for better decisions to be made at earlier stages of the decision-making process. If NEPA were correctly followed and implemented, I believe we would have better decisions, better environmental protection, and less litigation and delay. Unfortunately, I must say that I seldom see federal agencies following the principles and regulations of NEPA to allow those objectives to be achieved.

I believe the implementing regulations and guidelines for NEPA by the Council of Environmental Quality are quite good. They have been revised over the years, and I think little changes are required at this time.

Unfortunately, I must say that those regulations and guidelines are often not followed or understood by the implementing agencies. Some agencies, to this day, resist beginning the NEPA process. Once begun, they miserably fail to follow the CEQ regulations and guidelines.

### **Scoping**

#### **Comment**

Scoping is most often where the agencies fail. Insufficient notice is provided to potential stakeholders. Scoping is done late in the decision making process. Often, scoping is conducted not by the agencies, but by the party promoting the proposed action; consequently, there is the perception that the process is biased from the beginning.

CQ359

**Recommendations**

Agencies should develop and better utilize mailing lists of potential stakeholders and interest groups to inform them of proposed, significant actions that may affect the environment and require compliance with NEPA.

Each agency should maintain a web site, or location, where the public and other agencies can go to see what NEPA actions are on the table for a particular agency. A timeline for the NEPA process should accompany each listing.

**Training****Comment**

I find myself continually reminding federal agencies of the CEQ regulations and guidelines that pertain to the NEPA process. I find agencies developing environmental assessments (EAs) when environmental impact statements are clearly required. I often see voluminous environmental assessments, when environmental impact statements are called for in the CEQ regulations and guidelines. Inadequate tiering of decisions and supporting documentation occurs despite the regulations and guidance from CEQ; consequently, the documents and decision-making process becomes muddled.

**Recommendations**

There should be more rigorous training of personnel throughout the agency structure on the NEPA CEQ regulations and guidelines. The training could be done in a classroom setting, or through the use of interactive computer materials. The training should be done periodically and personnel should be able to show their supervisors when they last received training on the NEPA process, regulations and guidance.

**Resources****Comment**

The NEPA process cannot be implemented effectively, and the laudatory goals in the enabling legislation cannot be achieved, if inadequate resources are provided. All too often I find project proponents hosting scoping hearings, receiving comments, responding to comments and preparing the environmental documents. While some of these tasks may be shared with the private sector and project proponents, I often question the role and objectivity of the overseeing agency and decision-making official. The response I receive is that they do not have the resources. This creates the perception of a biased process that can be, and should be, challenged. Inadequate resources and a biased process works against the goal in NEPA of creating an open, efficient, decision-making process.

**Recommendations**

Greater resources need to be allocated by the agencies to the NEPA process. When additional

CQ359

resources need to be obtained from the outside, those resources should be controlled by the appropriate decision-making official whenever possible. The additional resources provided to a federal agency for implementing the NEPA process should be openly and clearly identified to reduce the perception that the project proponent is buying and controlling the NEPA process.

### **Lead Agencies and Cooperating Agencies**

#### **Comment**

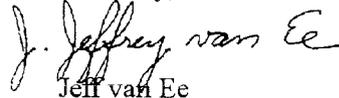
I have seen instances where a "cooperating agency" provides too little to the NEPA process either because they do not have the resources or interest in fully participating with the lead agency in the process. As a consequence, the quality of the decision-making process is lessened. Challenges to the NEPA process are increased because of the reduced input from the cooperating agency and the flawed decision-making process. There's often a question as to who is in charge and responsible for particular components of the NEPA documents and analysis.

#### **Recommendations**

Provide greater explanation at the time of scoping and in the preparation of the NEPA documents the responsibilities and expectations for the cooperating agencies. Consider greater use of teams and team-building to allow the individuals to more effectively work together.

Thank you for the opportunity to comment. (Fortunately, someone alerted me to the notice in the Federal Register, otherwise, I would not have been alerted to this request for comments.) If I can be of further assistance, please let me know.

Sincerely,



J. Jeffrey van Ee

Jeff van Ee