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September 23, 2002

NEPA Task Force
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On behalf of the millions of Americans represented by our organizations, we submit the following comments on the critical role the National Environmental Policy Act (NEPA) plays in promoting sound and accepted government decisions. For over 30 years, NEPA has provided an essential tool for analyzing the impacts of proposed federal agency decisions and providing the affected public a say in those decisions. NEPA and its accompanying regulations have worked well to help ensure that public resources are managed, and public funds are spent, through a public process.

While the Administration says that it wants to improve this process, its recent actions have sought to circumvent the process entirely. The result is more controversy and delay, rather than less. We urge the Administration to halt its efforts to exclude federal actions with serious environmental consequences, such as logging in the national forests and offshore oil drilling, from NEPA. Instead, we hope that the NEPA Task Force will take the lead in improving NEPA as a tool to produce better and less controversial decisions.

Improving Public Involvement

Too often agencies are already well down the path on a particular course of action before involving the public. For example, agencies sometimes define the purpose and need of a project narrowly to exclude options that may be widely accepted by the public and less environmentally destructive. In other cases, environmental impact statements (EIS's) often fail to include a diverse range of alternatives. For example, all the alternatives may include oil drilling with the difference being simply the number of wells. Even when an EIS includes a diverse range of alternatives, sometimes an agency is only serious about one or two options. Members of the public are left feeling that the input they provide has little or no impact on the agency's decision.

Recent actions by this Administration have sought to reduce, rather than enhance, public involvement. For example, the Navy has proposed to exclude completely from NEPA numerous activities—such as oil drilling, ocean dumping, and underwater explosives testing—that occur in our nation's coastal waters. Federal agencies have increasingly used categorical exclusions to avoid detailed analysis and public review of the consequences of proposed decisions. Furthermore, federal land management agencies are relying on out-dated information, rather than conducting new analysis and review.

Instead of shutting the public out, the Administration should look for creative ways to involve the public in a meaningful way. Engaging the public effectively can be challenging. Providing easy access to information helps. Some agencies are much better than others in making notices of proposed decisions and NEPA documentation available

on the internet. In addition to these documents, increased availability of data for relevant environmental indicators (such as water and air quality, threatened or endangered species populations) and links to this information from the notice of proposed decision would enhance the quality of public input. When the public is involved in a meaningful way up front, controversy and delay in the end are less likely.

Tackling Long-Term Impacts

Despite NEPA's mandate and the requirements of the Council on Environmental Quality's (CEQ's) regulations to address cumulative impacts, many agencies remain focused on individual project decisions ignoring the combined effects that several projects may have on the environment and surrounding communities. For example, pursuant to the Administration's energy plan, federal agencies (in particular the Bureau of Land Management (BLM)) are considering numerous oil and gas leasing and development proposals across the West on a scale that has never before been seen. These proposals have the potential to result in widespread industrialization, not just in individual BLM resource areas, but also cumulatively across the West. Already roads, waste pits and other development activities are slicing up habitat for migratory and wide-ranging species like the mountain plover. Coalbed methane (CBM) development, in particular, is increasingly affecting aquifers and surface water resources. In Wyoming's Powder River Basin alone, over 51,000 CBM wells have been proposed.

These actions threaten both the treasured landscapes and the traditional lifestyles of the West. Yet, no overall assessment of the cumulative impacts of the new National Energy Plan has been conducted. In fact, BLM has not even assessed the combined effects of proposed wells in the Powder River Basin alone, having split the analysis for the area into two separate environmental impact analyses.

BLM is not alone among federal agencies in its failure to adequately address cumulative impacts as part of the NEPA process. The recent analysis completed by the U.S. Army Corps of Engineers for its nationwide wetlands permit program makes little attempt to address cumulative impacts. *See*, U.S. Army Corps of Engineers, Draft Nationwide Permits Programmatic Environmental Impact Statement (July 2001). Although the scope of the Corps' proposed action—issuance of nationwide permits—is national, the Corps has failed to analyze cumulative impacts of that nationwide action. Instead, the Corps has subdivided the impact analysis into a series of regional analyses, none of which considers the full extent of cumulative impacts of the nationwide permits at issue.

In many states, large highway projects are being segmented and separately evaluated for their impacts, ignoring the cumulative effects of the larger set of investments on land use, travel behavior, pollution, and natural resource systems. Some states, like Oregon, have adopted best practice methods to evaluate induced traffic and land use effects of transportation investments which recent research has shown to be of great importance in predicting future system performance. But many other states use analysis tools that systematically ignore these effects. As a result, they underestimate the

traffic growth, pollution, and sprawl accompanying federally-funded highway system expansion. Alternatives that more efficiently manage traffic growth and support compact livable communities are often not considered in NEPA reviews and face little prospect for adoption when evaluated using transportation analysis models that have no sensitivity to key attributes of these strategies, such as the walkability of communities.

NEPA provides a critical tool for assessing the combined effects of human actions on the natural systems on which our quality of life and communities depend. Effective use of programmatic environmental impact statements (PEIS's) can help address the cumulative impacts of a program, such as the national energy plan, before commitments to specific courses of actions are made. Using a PEIS offers efficiencies to agencies by allowing impacts that are similar across various components of a program to be studied and reported once. Those aspects can then be simply summarized or updated in subsequent documents, rather than recreated from whole cloth in each project-level analysis. Agencies can then focus their attention and resources at the project level on fully assessing and addressing the particularized impacts on specific places of specific actions. While a PEIS cannot substitute for subsequent site-specific analysis, it can allow for more efficient and effective consideration of broad-scale, long term impacts of agency decisions.

Improving Monitoring and Data Quality

Too often agencies are relying on old, out-dated information to justify new actions. For example, the BLM is relying on old—some as many as ten and twenty years old—resource management plans (RMPs) to justify coalbed methane development that was never addressed in those plans nor the environmental analysis that accompanied them. While some new development may be appropriate, the BLM must involve the public in a meaningful way to determine how much and in what manner it occurs. BLM should not rely on old data to circumvent this public process.

Agencies must commit to, and be given the resources to complete, data collection necessary to analyze the impacts of their decisions adequately. Baseline data about current conditions are needed in order to be able to assess the impacts of a proposed action. In addition, monitoring is needed to assess the actual impacts that occur once a decision is implemented. Unfortunately, monitoring and mitigation, even when provided for in an EIS, frequently do not occur. Environmental management systems need to be strengthened to help assure that agency planning and management are routinely directed to avoid and minimize adverse environmental, equity, and social impacts, to measure their actual performance at accomplishing these goals, and to identify options for improved performance.

Effective monitoring and mitigation can provide agencies flexibility to respond to uncertain and changing conditions. Too often, however, agencies have relied on mitigation to conclude that an action will have only minimal, or no, detrimental effects on the environment without providing any mechanism to ensure that the mitigation actually occurs or works the way it was intended. For example, the draft PEIS issued by the U.S.

Army Corps of Engineers for its nationwide wetlands permit program assumes that mitigation will prevent more than minimal environmental effects from occurring. The Corps reaches this conclusion despite widespread evidence to the contrary, including research by the National Academy of Sciences.

Conclusion

NEPA works when done right. Opportunities exist to accomplish NEPA's goals more efficiently and effectively. These improvements do not require changing the NEPA regulations or legislation. Instead, the NEPA Task Force should help agencies provide more meaningful public involvement early and often in the process, increase the focus on long-term impacts, promote administrative systems that better integrate planning of public works, growth management, and natural resources management, and dedicate more resources for monitoring and mitigation. We encourage the Administration to enhance the NEPA process, instead of circumvent it.

Sincerely,

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