

SKY ISLAND ALLIANCE

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September 23, 2002

NEPA Task Force
 P.O. Box 221150
 Salt Lake City, UT 84122

RE: NEPA Procedures – Protecting the Role of Citizens in Governmental Decision-making

Thank you for providing the opportunity to comment on the role of the National Environmental Policy Act (NEPA) in federal agency decision-making procedures per 67 Fed. Reg. 45510-45512, and 67 Fed. Reg. 53931-53932. We incorporate by reference our joint comments with other conservation organizations which will be submitted under separate cover.

The Sky Island Alliance is a grassroots coalition of citizens dedicated to the preservation and restoration of native flora and fauna within the Sky Island region of southwestern New Mexico, southeastern Arizona, and northern Mexico. We are a non-profit organization currently representing over 1000 members and supporters in Arizona, New Mexico, and around the country.

The Sky Island Alliance is very concerned with issues affecting our ability, and the ability of our members, to participate in the management of our public lands and other public resources, such as endangered wildlife. We at the Sky Island Alliance are concerned that efforts are being taken by the current administration to reduce the ability of citizens to meaningfully engage in decisions affecting the environment. The National Environmental Policy Act, albeit in need of some improvement, is an important and essential federal law that must remain in order to inform federal agency decision-making in the future.

NEPA is one of many essential tools we utilize in order to fulfill our mission, that being the protection and restoration of the Sky Islands and the wildlife corridors between these isolated mountain ranges. NEPA provides a venue for us, and for our members, to play an active role in solving environmental challenges within our region of focus. Without the procedures required by NEPA, many of the issues that are of vital importance to our members would fall by the wayside, while commodity and special interest groups continue to exploit the resources of our public lands. Without NEPA, federal agencies would never hear from constituencies who utilize the federal lands in a non-impact or low-impact manner, such as hikers, backpackers, bird and wildlife enthusiasts, and those simply seeking solitude and peace from the harried everyday urban world.

In recent days, much to do has been made over the so-called "hindrance" that NEPA causes for federal agency officials who are merely trying to get their job done. The procedures required by NEPA have also allegedly caused what has been referred to as "analysis paralysis." We believe, however, that in an open democratic society that values the involvement of concerned citizens, procedures that may seem onerous provide the best decision-making over the long term. It is in the spirit and intent of NEPA that federal decision-making be informed by, and accountable to, the citizenry of the country. While this may cause some delay along the way, in the overall balance of things, this delay is not only warranted, but *necessary* to insure that agency decision-making is the best it can be.

Because of the sometime conflicting views of agency management and public sentiment, the NEPA process provides for positive feedback between managers and the public, including scientists, activists, recreationists, or other interested citizens. This vital feedback loop often results in proposed actions that are better developed, less controversial, and more efficiently planned. We can only assume that the potential for litigation would increase dramatically without disclosure of relevant information and feedback concerning proposed actions. Few other courses of action outside of courts would be available to citizens if agencies were not required to interact with and build upon comments provided by the public.

In general, NEPA works the way it should. It requires federal agencies to consider not only the opinions of the citizenry; it also requires agencies to seek out information about the impacts of their activities. There are many improvements that could nevertheless be made to NEPA procedures, most of which are discussed in our comments filed jointly with other conservation groups. In any case, doing away with NEPA entirely, or limiting its use is not the answer. Strengthening the NEPA procedure by requiring more public involvement earlier in the process, requiring better cumulative impact analyses and providing more and better alternatives are actions that should be taken to improve the process.

To speak directly of the issue of "analysis paralysis," we are currently experiencing a situation here in the Southwest where a federal agency itself is using NEPA to avoid taking immediate action, thereby failing to prevent environmental degradation to the lands under its jurisdiction. On the Coronado National Forest in Arizona, and a small part of New Mexico, resource damage is occurring due to the ever-increasing proliferation of wildcat road creation by riders of off-road vehicles. After years of failing to take any action to rein in this illegal activity, the Forest Service now holds the position that it must engage in a full environmental impact statement analysis for the closure of these illegal roads and trails, thus slowing down the process of stopping illegal resource damage by what will likely be several years.

In the meantime, the illegal roads and trails are creating problems with soil erosion, increased sedimentation into ephemeral streams (some of which are designated critical habitat), habitat fragmentation for many species of wildlife, and increased roadkill of wildlife, among others. Illegal roads also facilitate poaching of wildlife, and other resource damage from wildcat camping, garbage dumping, etc.

Under federal law, the Forest Service, as a land management agency, has the authority and the mandate to *immediately* stop the ongoing illegal damage under the categorical exclusions provided for in NEPA. The authority to take protective measures to prevent resource degradation stems not only from NEPA, but also from the National Forest Management Act, its regulations, and the Coronado National Forest Land and Resource Management Plan. While NEPA analysis is appropriate to assess the economic, public safety and environmental issues related to the transportation system, the Forest Service has an obligation to act now in order to maintain the integrity of the land under its jurisdiction.

In this example, we see a situation where an agency that often complains about the burdensome requirements of NEPA is using the law to avoid taking decisive action it has the authority to take under the categorical exclusion provision. By doing so, the Forest Service has created longer and longer delays and more controversy. While we support informed decision-making processes, in this case, the onus is on the Forest Service to act, rather than sit on its hands while damage is occurring.

The above example is a common theme in federal land management in the west. It would behoove the Task Force and the Council on Environmental Quality to clarify to land management agencies when and how they can use categorical exclusions to stop illegal, environmentally destructive activities on our public lands.

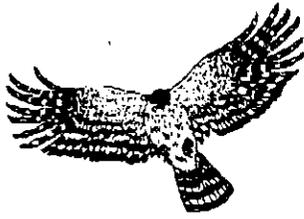
Thank you for your consideration of our comments on the National Environmental Policy Act. We look forward to continued and improved public involvement in government decision-making.

Sincerely,



Rachel Kondor
Ecosystem Defense Counsel and Policy Director

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FAX

To: NEPA Task Force
From: Rachel Kondor
RE: 67 Fed. Reg. 45510-45512, 67 Fed. Reg. 53931-53932
Date: September 24, 2002

I attempted to email and fax the enclosed letter yesterday but the email address (ceq—
nepa@fs.fed.us) bounced my messages back to me, and the fax machine did not pick up. A hard
copy was sent by mail.

This fax contains 4 pages (including this cover page). If all pages do not arrive, please call
(520) 624-7080.