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To: ceq_nepa@fs.fed.us
cc:
Subject: NEPA Task Force Comments

NEPA Task Force
P.O. Box 221150
Salt Lake City, UT 84122
submitted as e-mail through CEQ website

RE: July 9, 2002, Federal Register Notice and Request for Comments

Dear Task Force Members:

I am a resident of a forest community in northern California, and an environmental and NEPA consultant to collaborative and conservation groups throughout the Sierra Nevada. I have many experiences with U.S. Forest Service planning, public involvement, and NEPA processes. In the last twenty years I have participated in several NEPA processes for other Federal agencies also. In the main, however, my comments pertain to the practices and pitfalls of the U.S. Forest Service's implementation of NEPA. Since the U.S. Forest Service (USFS) seems to be the primary agency having so much difficulty fulfilling NEPA's purpose, these observations will hopefully be relevant to the Task Force's problem-solving.

Your July 9 Federal Register notice stated that the purpose of the NEPA Task Force is "to seek ways to improve and modernize NEPA analyses and documentation and to foster improved coordination among all levels of government and the public." Comments on the proposed nature and scope of the NEPA Task Force were invited. The list of questions posed in the Federal Register notice, however, seems wholly unrelated to the problems with present-day implementation of NEPA, especially by the USFS. The Task Force's focus on information technology and governmental agency interrelationships seems particularly off the mark, since these are not the sources of NEPA process failures. It is more often the bureaucratic culture of the agency, not planning and public involvement requirements, that makes NEPA ineffective and produces managerial, policy, political, and legal gridlock for the USFS.

In the following paragraphs I address some of the Task Force's questions. After these answers, I offer my own observations on current execution of NEPA.

Study Area A, Question 1. Where do I find data and background studies to ... provide input or to review and prepare comments on NEPA analyses? -- I rely upon existing NEPA and forest planning documents, such as National Forest Land and Resource Management Plans and their Environmental Impact Statements, as well as the sources and authorities cited in an EIS's References Cited section. I access USFS Research Publications websites, use university libraries within a day's drive to look up scientific studies and to conduct literature searches on specific resource issues.

A.2. What are the barriers or challenges faced in using information technologies in the NEPA process? -- For agency personnel, the barriers are accuracy of resource inventory data, and the expertise required to wield the analytical tools properly. The models available for forecasting wildfire behaviors are far more complex than the average

technician can properly interpret, for example. For the public participant, one barrier is cost! Federal agencies have access to far more recent, sophisticated, and expensive computer hardware and software than the average citizen. That's appropriate, but NEPA documents must not rely upon those technologies for public participation, or many citizens will be excluded by economic discrimination. Again the Forest Service's Sierra Nevada Forest Plan Amendment EIS illustrates the problem: the detailed GIS mapping that went into the EIS is available to the public, but only as ARC INFO files on zip files or CD-ROMs. How much money should I have to spend on computers and software in order to see a national forest map? What if I can't afford the technology?

A.5. What are my preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents? -- In order of declining preference: (1) on paper, in the mail or at a public office, because it is egalitarian and an always-accessible record; (2) CD-ROMs, though they require a power supply to access and may use software I can't operate; (3) websites, which are not always accessible online, may use software beyond my system's capabilities, and are not permanent records. I don't rely on press releases or public meetings for information on proposed actions and environmental analyses, because the coverage is usually too simplistic or inaccurate to be very useful.

What's really wrong with NEPA implementation, from a citizen's point of view?

The "NEPA inefficiencies" I encounter and/or read about in the environmental press are those due to lack of current and accurate resource data; to not adhering to procedural requirements for planning and responding to public input; and to a plain and simple failure to analyze and disclose relevant environmental, economic, and social factors in project decision-making. These in turn lead to decisions that disenchant one or more sets of citizens, who then formally object and/or challenge the decisions in court... leading to what we suppose the Task Force refers to as "inefficiencies" when their NEPA and planning records are found to be insufficient support for the decisions.

In June 2002, USFS Chief Dale Bosworth testified before the House Forests and Forest Health Subcommittee on "analysis paralysis" within his agency. As I watched his testimony on C-SPAN, I was surprised to hear Chief Bosworth say that Forest Service offices were conducting environmental analyses on subjects irrelevant to the decisions being considered in EAs and EISes, for fear of being sued! NEPA does not require irrelevant topics to be covered. Chief Bosworth also complained that the USFS was sued six times over failure to consider the "Beschta Report." Following current NEPA implementing guidelines and the U.S. Supreme Court's interpretation of "significant new information" in Marsh v. Oregon Natural Resources Council, I had to wonder why the USFS's regional forester did not assign an ad hoc committee to evaluate and document the appropriate disposition of any and all purportedly significant new information in the Beschta Report. Instead, six different decisions tripped over the same stone six times on the way to court. These and many similar events in the last several years lead me to recommend that the NEPA Task Force investigate whether some bad habits have crept into the execution of NEPA analyses and public involvement.

Practices which I believe have contributed to the overall gridlock include (1) prematurely narrowing the scope of analyses, particularly to exclude public issues; (2) use of the Content Analysis Enterprise Team to manage public comment. I have not found CAET's analysis of comments to be balanced or fair. In addition, the CAET approach concentrates on

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demographics and preferences of commentors -- where does NEPA authorize or require profiling? -- rather than on responding to substantive comments in the manner prescribed by CEQ in the implementing regulations. I was very disappointed that the CAET dismissed the comments of the Quincy Library Group on the Sierra Nevada Forest Plan Amendment DEIS as being from a "place-based interest group." The CAET's summary of public comments made it very clear that the comments of "conservation organizations" were given more weight than those from "interest groups," even those which sought integrated, balanced management solutions.

One disturbing trend in USFS NEPA documents in recent years has been the tendency to avoid assessing and disclosing the current condition of the environment potentially affected by a proposed action. Complex computer modelling is being substituted for inventory data in broad-scale planning for fire and fuels management, vegetation management, and wildlife habitat management. Unfortunately, modelling is only as good as its basic assumptions, and usually can provide only relative projections. For example, the Sierra Nevada Forest Plan Amendment EIS was able to tell the rankings of alternatives in relation to each other in terms of perpetuating old-forest characteristics, but it could not determine whether any of the EIS alternatives would provide enough old-forest habitat to sustain viable populations of California spotted owls.

An increasing number of environmental analyses are combining the "affected environment" and "environmental consequences" sections in their NEPA documents. The result is a loss of clear attention to the current condition and whether the analysis of the management situation is accurate.

I am keenly interested in the outcome of the NEPA Task Force, and hope that you use these and other comments you receive to better evaluate NEPA implementation practices.

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