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House of Representatives**Committees:**
Government Reform
Education and Workforce

CQ567

September 23, 2002

Mr. James Connaughton
Chairman
Council on Environmental Quality
722 Jackson Pl NW
Washington, D.C. 20503

Re: NEPA Task Force General Comments

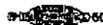
Dear Chairman Connaughton:

This is in response to the Federal Register notice from the Council on Environmental Quality calling for comments on the National Environmental Policy Act (NEPA) Task Force. Please accept these general comments.

NEPA is an excellent law which democratizes the governmental process involving the environment. NEPA requires that whenever the federal government or any of its agencies plans a project which would have an impact on the natural or human environment, the agency must notify the public and listen to their comments on the project and alternatives. NEPA sets up a system whereby the public can stay informed and involved in the activities of their government. NEPA recognizes that there are situations where the balance should be weighted in favor of a particular project at the expense of the environment and sometimes the weight should be on the environment. The analysis, however, requires an open and transparent public process.

Nothing that the Task Force does should remove, diminish, or negate the public's involvement in the decisionmaking process set up by NEPA. NEPA is about public participation. Sometimes, after full disclosure and participation, it becomes apparent that a project should not go forward, or should go forward with significant changes. This is as it should be. A lead agency may act without enough information to know what the environmental impacts are. The people may have a better idea of what those impacts are than the governmental agency. The government should listen to the people. NEPA gives the people a voice to which the government must listen. The NEPA Task Force should not take any action which would limit the people's voice on environmental issues. NEPA's public participation mechanisms, therefore, must not be diminished.

Two particular questions raised in the Federal Register notice are of concern to me: the questions on public involvement versus information security; and the question of the categorical exclusion.



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Public Involvement versus Information Security The tragedy of September 11, 2001, should not be used as a pretext by this or future Administrations to bypass public involvement in planning agency actions through NEPA. Where there is truly an issue of national security involved in environmental decisionmaking, our nation already has the tools it needs to protect the public. The use of NEPA to engage the public and accept public comments should not be curtailed in the name of national security.

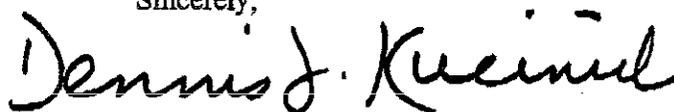
Categorical Exclusion The Categorical Exclusion (CE) saves time and agency resources when making decisions about on administrative matters where there is only de minimus impact on the environment. However, the public must be given a meaningful opportunity to show that there will be more than de minimus effect on the environment. The CE should not be used to shut the public out of controversial decisions. The decision to use the CE should be included in the scoping of a project, which itself should remain a public procedure. If a CE is not appropriate because of the controversy of the project or because the project is likely to cause more than a de minimus impact on the environment, these facts should become apparent in the scoping process and a more thorough analysis, such as the Environmental Impact Statement or the Environmental Assessment should be used.

In general, NEPA is most effective where it is used to invite and engage the public in a process where they are involved in the planning of their government's actions. The people are in the best position to tell their government what the effects will be on their environment. The government has a duty to listen to the governed. NEPA provides the government with the tools to do that.

If any changes are made to NEPA, those changes should be to invite and engage the public earlier into the decisionmaking process. Public engagement should occur when an agency first becomes aware that interest groups are seeking federal action which could have an environmental impact. The NEPA process should not wait until the private interests urging governmental action are already entrenched in the project.

The government should operate with transparency, not secrecy. NEPA is an important tool, when used correctly, to provide public awareness and input. Any changes made in NEPA should be to invite earlier and more effective public participation, not to curtail the people's involvement.

Sincerely,



Dennis J. Kucinich
Member of Congress

DJK:mg
cc: NEPA Task Force

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Congress of the United States
House of Representatives

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MESSAGE: General Comments

2 pages to follow

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