

SIERRA CLUB



CQ590

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September 20, 2002

NEPA Task Force
P.O. Box 221150
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Dear NEPA Task Force,

Enclosed are the comments of the Houston Sierra Club (HSC) regarding the proposal to make weakening changes to the National Environmental Policy Act (NEPA).

The HSC commented on hundreds of NEPA documents over the past 30 years. The author of this letter has personally read about 200-250 NEPA documents from 1977 to 2002. It is very discouraging that the Bush Administration wants to weaken NEPA when it needs strengthening.

The HSC is against any changes that would weaken or increase flexibility for NEPA. Currently, due to lawless agencies, poorly informed courts, and administrative actions that subvert NEPA at every turn, including taking the President's Council on Environmental Quality (CEQ) and capturing it for those who want to destroy the environment and develop every inch of wild lands, NEPA is already crippled. We need a stronger NEPA and not a weaker one. This can be done in the following ways:

- 1) Require a specific cumulative impact analysis, assessment, and evaluation section in each Environmental Impact Statement (EIS), Environmental Assessment (EA), Categorical Exclusion (CE), and Finding of No Significant Impact (FONSI). Currently lawless agencies either do not include cumulative impacts or say they do but provide no quantitative information. Require both quantification and qualification of all proposals for cumulative impacts. Spell out the cumulative impacts so they include all past, present, and future foreseeable actions, no matter what the action was or who did the action in the project and surrounding areas.
- 2) Strengthen the CE definition (Section 1508.4) to limit the size, impact, and other features of an action so that only truly CE type actions are covered and not heavily impacting activities like logging, roading, wetlands destruction, mining, oil/gas activities, grazing, urbanization, etc. Some actions are damaging no matter what the level including those mentioned above. We need to focus on truly CE actions like erecting small signs, putting fiber optic cables in existing road right-of-ways, etc.

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"When we try to pick out anything by itself, we find it hitched to everything else in the universe." *John Muir*

- 3) Require that each person who submits scoping comments receives a free copy of the environmental document. Currently, the Texas Department of Transportation, Grand Parkway Association, and Federal Highway Administration require that citizens, even those who submitted scoping comments, pay for the cost of duplicating the DEIS. The DEIS for Segment C of the Grand Parkway cost over \$120. This high cost ensures that few citizens will be able to afford to pay for the very document that their tax dollars create and that assesses how their tax dollars will be spent. The owners of the U.S. Government deserve service and not customer fees. Change Section 1506.6(f) to reflect the changes enumerated in this comment.
- 4) Require that a hard copy of environmental document be given to a member of the public that request them. Putting environmental documents on computer disk is not good enough since it ensure that 50% of the public (who do not own computers) are either not able to obtain the information or do so with much difficulty. In addition, many programs either work poorly or not at all on certain computers. Agencies are essentially requiring each member of the public to invest \$1,000-2,000 in a computer so they can use the disk given to them. It costs a considerable sum to print out 500-1,000 pages documents (Grand Parkway DEIS) on an individual's home printer. A hard copy can be easily used and carried to work so citizens can read and develop comments on their lunch hours and other free times. Stop assuming everyone has a computer. Putting a copy of an environmental document at a few local libraries in a town, city, or area to share is not sufficient for full public availability, participation, and involvement.
- 5) Make the CEQ independent of the political stresses that currently occur. For instance, during the Clinton Administration, for the first time ever, a logging project was granted an emergency EIS exemption under NEPA (Section 1506.11) with no public input. In addition the so-called Texas Blowdown Logging Project in the National Forests and Grasslands in Texas was not an emergency. Pressure was applied to staff so that an illegal waiver of the EIS requirements was granted. This allowed the logging of about 100 million board feet of public trees on tens of thousands of acres of National Forests with little NEPA analysis, assessment, and evaluation. There was no emergency period!
- 6) Require that all reasonable alternatives be covered in EIS/EA as stated in Section 1502.14(a). Currently, agencies often offer few if any reasonable alternatives. For instance, the January 11, 2002 EA/FONSI for "Timber Harvesting for Forest Health" in Compartments 28 and 37 of Sam Houston National Forest offers only two alternatives for analysis. These two alternatives were the "No action alternative", which NEPA requires be in each EIS/EA and Alternative 1, which is the proposed logging and roading action the Forest Service wanted and approved. This action, which is common, certainly does not reflect the NEPA/CEQ requirement that "all reasonable alternatives" be considered.

- 7) Require that all CEQ rules that apply to EIS, also apply to EA. Since EA play the vital role of determining whether an EIS is required it seems logical that the same rules in preparing an EIS should apply to an EA. Otherwise agencies hide the impacts in an EA by not conducting the analysis.
- 8) Please understand that any delays that NEPA supposedly causes are usually caused by the agencies that do not implement NEPA as required by law, court cases, CEQ regulations, and the agency's own NEPA regulations. The Corps of Engineers has been sued in Texas because NEPA has not been implemented as required by law. Because lawless agencies invite lawsuits as the only alternative to get them to obey the law, they get those lawsuits. The number of lawsuits is not nearly as large as it could be because citizens cannot afford to go to court everything a federal agency violates NEPA. Stop lawless agencies!!!
- 9) Require that agency NEPA implementing regulations mirror CEQ regulations and do not re-interpret what NEPA and CEQ require.
- 10) Restore Section 1502.22 so the requirement that agencies are responsible for developing important information, if it can be developed in a reasonable timeframe. This worst case scenario analysis was weakened many years ago and needs to be reinstated and strengthened.
- 11) Require that projects cannot be segmented, ever. The Grand Parkway, in the Houston Area, is a 170 mile freeway that is being built in segments because the proponents (Federal Highway Administration, etc.) say that each segment serves an independent function. The total impacts of this 170 mile long, \$2-4 billion road to nowhere (that is why we call it the Grand Parkway), have never been analyzed, assessed, or evaluated. Instead citizens are flooded with about 8 individual EIS that hide the true magnitude of cumulative impacts from this highway from hell. Stop segmenting as allowed in Section 1502.4.
- 12) By emasculating NEPA the Bush Administration will take away one of the most citizen friendly involvement laws in existence. There is very little opportunity for most citizens to get involved in public decision-making because there are few laws at the local and state level in Texas which mandate citizen participation and involvement. NEPA allows a community to ask questions and hold officials accountable. Anything which reduces or lessens citizen participation under NEPA will weaken our democratic form of government. When a developer, bureaucrat, or politician gets too greedy or arrogant, the power of NEPA can slap them down and require them to tell the truth. In this way NEPA offers citizens the opportunity to force these negative forces "to do the right thing." Without NEPA citizens will only be able to tell their employees (public servants and elected officials) not to do something bad, instead of actively working to get something good accomplished.

- 13) Do not exempt fire fighting and fuel reduction projects, defense projects, mining projects, oil/gas projects, and other projects from NEPA. We need a more inclusive use of NEPA and not a less inclusive use. Fire fighting and fuel reduction projects need to be planned carefully to ensure they do not harm the very environment they purport to protect. Bulldozing fire lanes, clear-cut logging, destruction/damage to streamside zones, are all products of fire fighting and fuel reduction projects. Defense projects can damage the environment as massively as projects by other agencies. As prepared as our troops have shown themselves to be, it is a sham for the Defense Department to pretend that it is being held hostage by NEPA. That dog won't hunt!!!
- 14) NEPA helps stop many wasteful taxpayer funded projects. By telling the truth NEPA allows citizens to shine the light of honesty and responsibility onto agencies and public officials. Since the public are the owners of their government and public lands the public has a right to an honest analysis, assessment, and evaluation of how these assets will be treated, environmentally, by proposals that often benefit private interests with subsidized public money.

We urge the Bush Administration not to destroy or wound the mother of environmental laws. NEPA truly is a remarkable document because all it requires an agency to do is tell the whole truth. It is the power of truth that keeps NEPA modern and effective. Do not change NEPA to that cynicisms, falsehoods, and deceptions are allowed to moderate, creep in, and take over the public's domain.

"Do the right thing"!!!

Sincerely,



Brandt Mannchen
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