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CQ624

September 30, 2002

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

Dear NEPA Task Force,

Enclosed are the comments of the Ecology Center regarding the proposal to make weakening changes to the National Environmental Policy Act (NEPA). The Ecology Center has a vital interest in the proposed changes because we a non-profit, public-interest conservation organization. Our staff work to protect biological diversity and ecosystem integrity, primarily in the Northern Rockies, Rocky Mountains and Great Plains. We also work to increase citizen participation in public lands management.

The Ecology Center 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:

NEPA is one of the most important laws enacted in the continuing effort to protect and restore the unique and diverse natural systems of this nation. NEPA established an open and public approach to federal actions that has lead to better-informed decisionmaking overall. As is true with any law, the ensuing years of implementation reveals that there is room for improvement, but the underlying tenants of NEPA remain as legitimate today as they were in 1972.

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 use they do not 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.

3) Require that each person who submits scoping comments receives a free copy of the environmental document. Members of the general public must have access to documents about projects that effect their lives. Charging fees places too high a barrier on the average working person. 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 on an individual's home printer. A hard copy can be easily used and carried to

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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, partici

5) 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.

6) 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.

7) 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. 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!!!

8) Require that agency NEPA implementing regulations mirror CEQ regulations and do not re-interpret what NEPA and CEQ require.

9) 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.

10) Stop segmenting in Section 1502.4. Projects must not be allowed to be artificially broken down into an arbitrarily small scale when they, combined with other past, present, and reasonably foreseeable activities and events have legitimate cumulative effects.

11) By emasculating NEPA the Bush Administration will take away one of the most citizen friendly involvement laws in existence. 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. NEPA provides a well informed citizenry envisioned by our founding fathers and envisioned the pioneers of the landmark environmental legislation of a few decades ago.

12) 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.

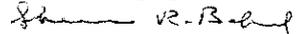
13) NEPA helps stop many wasteful taxpayer funded projects. By telling the truth NEPA allows citizens to shine the light of honesty and responsibility onto agencies and public officials. Since the public are the owners of their government and public lands the public has a right to an honest analysis, assessment, and evaluation of how these assets will be treated, environmentally, by proposals that often benefit private interests with subsidized public money.

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14.) A pervasive problem in NEPA decisionmaking is a lack of coordination or outright conflict between federal agencies and/or between them and state or local agencies. As discussed above, often the science/research arm of an agency is not involved with important management planning endeavors at an early enough stage or is involved only peripherally, which can lead to contradictory recommendations and scientifically and legally vulnerable NEPA decisions. Additionally, intra-agency conflicts can draw-out and confuse NEPA processes and frustrate all parties concerned. While these problems often have more to do with how agencies are structured and funded, we feel that improved coordination within and between agencies is not only possible but necessary to realize the full potential of environmental planning and protection under NEPA.

The proposed Burned Area Recovery ("BAR") Project would have allowed salvage logging on 41,000 acres within the Bitterroot National Forest in Montana. The project, as originally designed, would have caused prolonged degradation of habitat in bull trout streams already stressed (in the short term) by the fire. This unacceptable risk to federally-listed bull trout was due in large part to the Biological Opinion (BO) issued by the Fish and Wildlife, and which was tiered to a programmatic BO for the larger Columbia River Distinct Population Segment (DPS) of bull trout that encompasses the project area. Although the BO conceded that the Columbia River bull trout DPS is highly fragmented and that the upper Columbia River portion of the DPS is nearly extirpated, the Service illogically concluded that the project would not jeopardize the Columbia River bull trout DPS. Yet the bull trout BO for the Bitterroot BAR project lacked any analysis of the claim that loss of local populations does not compromise the recovery of the DPS as a whole—in place of thoughtful analysis, it refers back to the programmatic BO for the entire Columbia River DPS as justification for signing off on a project that would have devastated local bull trout populations.

Sincerely yours,



Sherman Bamford  
The Ecology Center

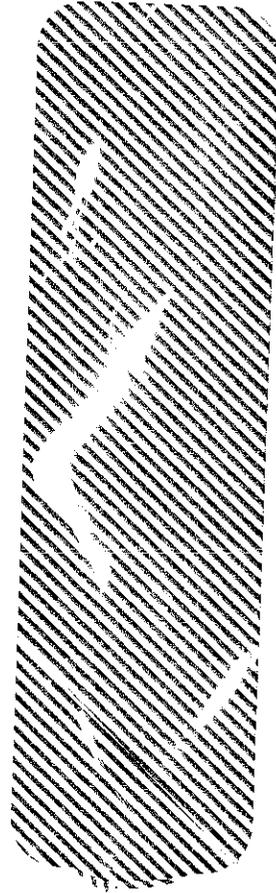
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