

CQ634



Ron Schindler  
<ron\_schindler@anad  
arko.COM>

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To: "ceq\_nepa@fs.fed.us" <ceq\_nepa@fs.fed.us>  
cc: Tim Hopkins <qxc200@DOMESTIC.EXCH.ANADARKO.com>, Marla  
Jones <mxp295@DOMESTIC.EXCH.ANADARKO.com>  
Subject: September 17, 2002

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Thank you for the opportunity to comment. I am attaching a comment letter from Tim Hopkins for Anadarko Petroleum Corporation. If there is any problem with the transmission, please contact me immediately.

Ron Schindler



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September 23, 2002

Council on Environmental Quality  
NEPA Task Force  
P.O. Box 22150  
Salt Lake City, Utah 84122

Re: July 9, 2002, Notice and Request for Comments from the NEPA Task Force

Dear Sir or Madam:

Anadarko Petroleum Corporation (Anadarko) offers the following comments in response to the Council on Environmental Quality's (CEQ) NEPA Task Force request for comments on how to improve and modernize the National Environmental Policy Act (NEPA) analyses and documentation published in the Federal Register on July 9, 2002.

Anadarko welcomes this effort to improve and modernize the NEPA process. As one of the largest oil and gas exploration and production companies in the United States, Anadarko is committed to developing these resources in an environmentally sound manner. The NEPA process is a way to achieve this goal by allowing agencies to utilize their expertise to develop the best scientific information to assess and minimize the potential impacts to the environment. However, in recent years, federal agencies have moved away from using the process as intended and instead have tried to create documents that are litigation proof. This move away from gathering scientific evidence on which to base a decision and towards immunizing decisions from challenges has begun to erode the utility of the process. The process could be best improved by emphasizing that NEPA is a procedural statute intended to guide agencies in gathering information on which to base their decisions and is not meant to require production of documents that analyze every conceivable alternative in minute detail.

The following are Anadarko's specific comments in response to questions posed in the Federal Register Notice.

A. Technology, Information Management, and Information Security

Question No. 5: What are your preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents?

Answer: NEPA analyses and documents should be made available through a wide variety of methods to ensure the greatest access to these documents. Notice of proposed actions should be provided via both the Federal Register and agency websites. With

respect to websites, however, more emphasis should be placed on ensuring that the information contained in the websites is up-to-date and accurate. The websites do not appear to be updated on a routine basis, and therefore these sites can not be reasonably relied upon as a source of information. Regardless of the success in updating websites, hardcopies of documents must continue to be made available. Given the voluminous nature of many of the current analyses being issued, downloading and printing are often problematic for much of the public.

#### B. Federal and Intergovernmental Collaboration

Question No. 1: What are the characteristics of an effective joint-lead or cooperating agency relationship/process?

Answer: This process could be improved by ensuring that all interested agencies are brought into the process at the beginning and are required to clearly define their interests. This is particularly true for the Environmental Protection Agency (EPA), who has a statutory responsibility to review NEPA documents. While we realize that EPA and some other federal agencies view their roles as being evaluators, and not as participants, this view often results in unwarranted delays in completion of an analysis, because these non-lead agencies do not provide their views until the process is virtually completed. The cooperating agency role should be redefined to require the agency to provide its input much earlier in the process or to formally defer their responsibility to the lead agency.

Further, all federal agencies should be required to use the same criteria when evaluating a proposed project. For example, different agencies use different criteria for determining when impacts are significant. These criteria should be standardized amongst the federal and state agencies and the regional or field offices within those agencies. In addition, different agencies have different levels of funding for their NEPA activities. This leads to delays in the process, especially if input from a given agency is critical to the analyses. Further, co-operating agencies should be required to justify the need for any additional studies, particularly if the agency does not have the funding or personnel to carry out the study itself. The absence of such a requirement allows a co-operating agency to unreasonably delay the NEPA process and consequently the proposed project.

#### C. Programmatic Analysis and Tiering

Question No. 1: What types of issues best lend themselves to programmatic review, and how can they best be addressed in a programmatic analysis to avoid duplication in subsequent tiered analysis?

Answer: Although the goal of programmatic analyses and tiering are essential for common sense management, this tool is proving to be highly ineffective. Because of challenges to virtually every proposed action for development of federal oil and gas resources, agencies have not been able to truly tier documents off of one another. Instead, agencies most often produce environmental assessments that resemble either

programmatic analyses or more closely resemble environmental impact statements. The Task Force should re-emphasize that tiering is not only permissible, but that it is desirable as a way to avoid unnecessarily taxing the limited federal resources that are available to prepare these analyses. Once a finding has been made, it need not be re-examined, unless resource conditions or management direction have significantly changed. Moreover, it should be emphasized that as documents are tiered off of one another, the subsequent documents should become more concise, which is certainly not the case now.

#### D. Categorical Exclusions

Question No. 3: Are improvements needed in the process that agencies use to establish a new categorical exclusion?

Answer: Although the process may not need to be improved, agencies should be encouraged/required to categorically exclude actions that are truly private in nature but may have an incidental impact on federal lands or require the use of a small piece of federal land. For example, agencies should categorically exclude a request for access across federal land to private land or the placement of a pipe that merely crosses a very small portion of federal lands. Federal resources are being wasted in analyzing projects that have minimal or insignificant impacts to federal lands.

#### E. Additional Areas for Consideration

One of the biggest issues that we believe the Task Force should address is environmental assessments (EA). EAs have become almost as lengthy, time consuming, and expensive to prepare as a full-blown environmental impact statement. The Task Force should analyze methods by which to standardize the process. For example, page limits should be set and the number of alternatives that must be analyzed should be standardized. We believe that between three and five alternatives are the most that should be analyzed in an EA. The regulations implementing NEPA should also specifically allow for an EA to analyze the proposed action and a no action alternative. This should be provided for when all of the potential alternatives are really only minor variations of the proposed action, with no concomitant change in the potential impacts. The Task Force should recognize that the primary purpose of some projects is simply for the purpose of gathering scientific information needed to assess the potential impacts and scope of future projects. Such projects should not require exhaustive analysis as, by their very nature, they pose minimal impacts to the environment, and their purpose is to enable decision-makers to obtain information for future analysis.

Another issue relates to the scope of reviews required under NEPA. For example, some current practices and trends, if taken to their logical conclusion, would require federal agencies to anticipate every action that could possibly be taken or developed in a particular area for up to 20 years. Such an approach was not the intent of Congress.

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In addition, certain adjustments should be made to better use agency resources and personnel in cases of minimal impact to the public lands. As an example, it seems nonsensical to require an agency to dedicate six months of staff time and resources to first analyze and finally make a decision between installing a gate or a cattle guard on an existing road.

Anadarko appreciates the opportunity to provide CEQ and the NEPA Task Force with these comments. If you have any questions or require further information, please contact me at the address or telephone number provided above.

Sincerely,

Tim Hopkins  
Manager, US Onshore  
EHS and Regulatory