

Electronic Mail sent 10/22/2003 to Kelly Canfield

To: Kelly Canfield
White House Council On Environmental Quality

Kelly:

I received the notice below about the upcoming roundtable in Shelton, Washington regarding possible changes to NEPA. I will be unable to attend, but have the following suggestions for your consideration.

I am with the Frazier Park Area Adopt A Creek Project in Frazier Park, Calif.

www.shopoutdoors.com/Adopt-a-Creek.htm

Our membership and close affiliations are composed of several local conservationists, outdoors-oriented residents, fishermen, business people, educators and environmentalists who are concerned about local watershed and environmental issues. We have taken a proactive stance on impacts to our local watershed and development-related issues, as well as on urgent environmental situations.

Our most pressing concerns are fourfold:

1. Unresponsiveness of public agencies and agents at all levels of government to the enforcement of local, state and federal environmental law and/or our or other public inquiries regarding violations or enforcement requests. A review of the correspondence posted on our website will exemplify numerous situations in this regard. If NEPA, and in our case CEQA, are to be effective, the citizenry must have an effective, rapid means of obtaining information, response to enforcement requests, follow-through and professional communication. Response requirements should be added to the law. In addition, complainants must be assured of anonymity, to protect their personal and family interests and safety and to encourage their participation in the process.

2. Communication between agencies regarding violations, enforcement proceedings, effective followup and status needs to be readdressed. We have run into several situations recently where a county, state or federal- level agency is aware of violations or Agreements broken, but makes no attempt to inform other involved agencies of such. An interagency, and intra-agency, checklist should be established to require and assure communication of enforcement or violation proceedings to other agencies overseeing or impacted by the violation situation. Provisions of Agreements that have been made between agencies and the private or public sector must be enforced. That checklist should include an ongoing status/followup report and schedule, and specific followup plans/requirements and action dates. In several situations, violations have been found and citations issued, with followup or corrective action required but the agency did not follow up to assure that the violations were in fact corrected. The passage of environmental legislation or new regulations mean nothing if enforcement is not supported by effective procedures, communication, followup and funding. A checklist/communication requirement will assure that agencies will not either intentionally or unintentionally withhold information that is of use to other agencies.

3. County governments are the most-frequently involved level of governance in environmental situations and major development plans. In our situation, the Kern County , Ventura County and

Los Angeles County Board of Supervisors ultimately approve development plans submitted to them by their Planning Departments/Commissions. Many situations and litigations have occurred because these Boards or Planning Departments have not completed a thorough review of public comments, failed to respond to those comments, failed to complete CEQA Checklists or on the record admittedly not completed a thorough review of the Draft EIR's or EIS's detailed elements. Frequently, the ultimate result is "left up to the courts to decide", thus absolving the BOS's of their ethical, social and legal responsibilities, and excusing the intent of the lawthat they be thoroughly involved in reviewing all elements of the documents. The initial review phase requirements, and penalties for NOT conducting a thorough review, or for failing to respond to the public's comments, must be strengthened. In fact, a NEPA Checklist, similar to CEQA, should be required as a part of the process, including on management plans compiled by public agencies for activities or operations under their jurisdiction that impact the environment. In addition, county agencies must be required to state that the development application is in conformity with their General Plans, Specific Plans, Environmental Regulations, Native American Artifact ordinances, Zoning Ordinances or Conditional Use Permit ordinances prior to processing the application.

4. The holding of both **informal and formal** knowledge of any element of an organization's or individual's development plans by members of a Planning Department or Planning Commission or a public agency official at any level, as well as the applicant, must be required to be disclosed to the public during the public review and comment phase. Failure to disclose any information thus held must be quickly and substantially penalized. Developers and planning officials, public servants etal must be required to reveal ALL information they have at their disposal regarding present AND future plans related to the planning under public review, so the public may make a full, complete and informed decision and submit comments related to that information. Failure to thus disclose should carry a heavy penalty and place a lengthy time limitation on the applicant's ability to resubmit the development plan. In addition, the developer/applicant should be barred from making political contributions of any nature within two years either prior or subsequent to the date of application to any local public official, or to a public official otherwise involved in the decision-making process, or be required to disclose such a contribution on the development application for evaluation during the public review and comment phase.

I hope these comments can be added to the results of these roundtables, and I encourage you to request similar comments from conservation and environmental groups around the country. Thank you for receiving ours.

Sincerely,

Lloyd Wiens, Pres.
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