

# NATIONAL PARKS CONSERVATION ASSOCIATION®

*Protecting Parks for Future Generations<sup>SM</sup>*

January 15, 2004

To: Horst Greczmiel, CEQ Associate Director for NEPA Oversight  
From: Gregory S. Kidd, Associate Southeast Regional Director, NPCA  
Subject: Comments re. The NEPA Task Force Report to CEQ  
Modernizing NEPA Implementation

The National Parks Conservation Association (NPCA) appreciates this opportunity to comment on the NEPA Task Force Report *Modernizing NEPA Implementation* (NEPA Report). NPCA is the only non-profit organization solely dedicated to the protection and enhancement of America's National Park System for the enjoyment of present and future generations. We have 300,000 members nationwide who share our commitment to protecting our national parks and the remarkable natural and cultural heritage that those parks represent. The National Environmental Policy Act (NEPA) represents a critical tool in our efforts.

First enacted in 1969 during the Nixon administration, NEPA represents a turning point in this country's view on environmental protection. It allows for judicial review of agency decisions and thus has injected discipline and values into administrative decision-making. The law is significant as it forces the federal government to "look before it leaps" when taking any major actions significantly affecting the quality of the human environment.

In general, the NEPA Task Forces recommendations in the NEPA Report are sound. The following comments highlight the importance of some of the key recommendations in the NEPA Report.

## **Public Involvement**

The most critical need for modernizing NEPA is to develop the means to improve both the quantity and quality of public involvement in the NEPA process. Key recommendations in the report that CEQ should adopt are: public review of categorical exclusions, development of a "Citizen's Guide to NEPA," development of training for the public on NEPA requirements and effective public involvement, improvement of information technologies to disseminate NEPA information to the public as quickly and efficiently as possible, increased use of the internet to post Environmental Assessment (EA) data, information and documents to improve the quality and efficiency of public involvement.

All agencies responsible for complying with NEPA need to strive for maximum public involvement. NEPA has been on the books for over 30 years now. Both public and private sector actors who trigger NEPA are well aware of the law and the timeframe for decisions making their

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way through the NEPA process. These actors must recognize that public involvement takes time and factor that into their business plans.

The time between the conception of a plan of action and the decision whether or not that action can be justified in light of environmental consequences is part of the cost of doing business. More importantly it is the point of NEPA to cause the federal government to look before it leaps on action that could significantly impact the environment and the NEPA timeframe provides the opportunity for a good, hard look.

### **Categorical Exclusions**

Agencies involved in NEPA compliance must develop a method for consistently updating their list of categorical exclusions. Key recommendations in the report that CEQ should adopt are: the encouragement of greater public outreach beyond the Federal Register notice and comment period to increase public involvement in this process; the importance of periodical review and update of categorical exclusions; development of methods for post-implementation monitoring and effects analyzes which agencies can use to determine whether actions are appropriately categorically excluded.

### **EAs and FONSI**

The Task Force makes some important recommendations regarding guidelines that should be developed by CEQ. The report recommends that the guidelines should: specify existing minimum EA requirements; address what should be included in an EA and Finding of No Significant Impact (FONSI) to demonstrate that the agency has considered environmental consequences of a proposed action; address the ability of a FONSI to serve as a legally binding mechanism to enforce mitigation measures.

Another important point brought out by the report is the policy adopted by most agencies in situations where a proposed action has not been implemented in 5 years from the date a FONSI is signed, the agency will reevaluate the project to ensure that no significant changes have occurred in the environment, original proposed action, potential cumulative impacts of the original project with other related projects, level of public controversy and state of science and technology. NPCA agrees that this is an important procedure.

### **Coordination with other Federal Laws**

The report stresses the need for comprehensive coordination with other laws. The most common laws that overlap NEPA compliance are the Endangered Species Act, National Historic Preservation Act, Clean Water Act and the Clean Air Act.

The report recommends and NPCA supports the development of a CEQ handbook - in consultation with EPA, ACHP, FWS, NOAA and other agencies - that outlines the integration of the various laws with NEPA.