



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

December 29, 2009

Honorable James M. Inhofe  
Ranking Member  
Environment and Public Works Committee  
United States Senate  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable John Barrasso  
Environment and Public Works Committee  
United States Senate  
307 Dirksen Senate Office Building  
Washington, DC 20510

Dear Ranking Member Inhofe and Senator Barrasso,

Thank you for your letter dated October 22, 2009, regarding Council on Environmental Quality (CEQ) advice to Federal agencies on whether and how to incorporate greenhouse gas emissions and climate change impacts into National Environmental Policy Act (NEPA) analyses.

Promoting the purposes of NEPA, including informed agency decision-making and enhanced public participation, is an important priority for this Administration and for me as CEQ Chair. NEPA requires that all agencies of the Federal government conduct a detailed assessment of environmental impacts and alternatives to a proposed action for any major Federal action significantly affecting the environment. I agree with your letter's description of NEPA as a "bedrock environmental statute, which requires Federal agencies to consider how their actions could significantly impact the environment."

Allow me to assure you that NEPA cannot be used to regulate greenhouse gas emissions. Rather, the Administration remains committed to comprehensive energy and climate legislation to address such broader issues. Nonetheless, NEPA compels Federal agencies to consider environmental effects before undertaking significant actions or policies. CEQ sees no basis for excluding greenhouse gas emissions from that consideration. CEQ believes that it is appropriate and necessary to consider the impact of significant Federal actions on greenhouse gas emissions and the potential for climate change to affect Federal activities evaluated through NEPA and different approaches for managing those effects. Accordingly, CEQ is considering responding to the petition you reference by issuing guidance to agencies on this issue. Any such guidance would first be proposed in draft form and would be available for public comment. I would welcome the chance to meet with you – either in advance of or after our issuing such a draft – to discuss our approach and to better understand any concerns you may have.

Your letter referenced the National Surface Transportation Policy and Revenue Study Commission, whose 2007 final report (<http://transportationfortomorrow.org/>) identifies improved agency management of NEPA processes as one of many opportunities to reduce overall project delivery time<sup>1</sup>. I fully agree that the NEPA process should not result in unjustified delay, but believe strongly that adequate environmental reviews and public participation can be accomplished in a timely manner.

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<sup>1</sup> See Chapter 6, Page 12 of the Final Report.

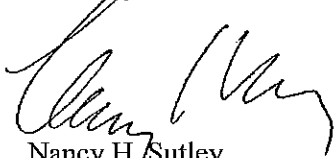
In fact, our recent experience with environmental reviews in the context of the American Recovery and Reinvestment Act of 2009 (ARRA) demonstrates the successful wide-scale application of NEPA without slowing economic recovery. As an example, in its most recent report under Section 1609 of the ARRA, the Department of Transportation (DOT) reported that more than 14,650 NEPA reviews have been completed for projects and activities receiving ARRA funding. The completed NEPA reviews include more than 160 environmental impact statements (EISs), more than 450 environmental assessments (EAs), and approximately 14,000 decisions based on categorical exclusions (CEs). DOT's ARRA reports do not indicate that NEPA has hindered DOT's obligation of more than \$29 billion in ARRA funds or the economic and environmental benefits of these projects.

Indeed, I have instructed all departments and agencies to contact CEQ immediately if they identify an ARRA project or activity that is experiencing substantial delays in completing NEPA reviews and documentation<sup>2</sup>. No department or agency has reported any such delay.

You have asked CEQ to provide specific documents and information. CEQ's responses are enclosed with this letter.

Thank you again for your letter. I appreciate and share your commitment to ensuring the proper implementation of NEPA and to common sense approaches to environmental reviews that strengthen our nation's economic recovery. I look forward to working with you to accomplish these goals.

Sincerely,



Nancy H. Sutley  
Chair

cc. Honorable Barbara Boxer  
Honorable Sheldon Whitehouse

Enclosures (2)

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<sup>2</sup> CEQ Memoranda to Heads of Departments and Federal Agencies (April 3 and November 20, 2009) ([http://ceq.hss.doe.gov/nepa/regs/Recovery\\_Act\\_and\\_NEPA\\_040309.pdf](http://ceq.hss.doe.gov/nepa/regs/Recovery_Act_and_NEPA_040309.pdf) and [http://ceq.hss.doe.gov/nepa/regs/ARRA\\_NEPA\\_Reporting\\_Memo\\_11202009\\_Final.pdf](http://ceq.hss.doe.gov/nepa/regs/ARRA_NEPA_Reporting_Memo_11202009_Final.pdf)).

## Responses to Specific Questions:

### Question 1

CEQ is considering responding to the 2008 petition by issuing draft guidance on the consideration of climate change issues through the NEPA process. We continue to develop our proposed draft guidance and we plan to seek public comment on it when issued. Because we are still developing our guidance and a formal review process has not commenced, we cannot provide a specific timeline at this point. We would be pleased to keep you apprised of the timing of our actions as our work progresses.

### Questions 2 – 6

CEQ's consideration of the effects of greenhouse gas emissions and climate change dates back to the beginning of the agency. CEQ's first Annual Report in 1970 discussed climate change, concluding that "man may be changing his weather." Environmental Quality: The First Annual Report at 93. The development of the October 8, 1997, draft guidance document cited in your request can be traced back to the 1980s when, during the Reagan Administration, CEQ considered the development of guidance on the consideration of global climate change effects in NEPA analyses. With increasing frequency, and in accordance with the duties and functions of CEQ specified by Congress in Section 204 of NEPA, CEQ has been actively engaged with Federal agencies as they address issues involving the incorporation of greenhouse gas emissions and climate change impacts into NEPA analyses. To assist Federal agencies' implementation of NEPA, CEQ officials have also addressed climate change issues as part of various training presentations.

With respect to your requests for drafts and information about CEQ's deliberative process, we note that the development of a draft guidance document is an ongoing and continuous effort. It has been the longstanding practice of the Executive Branch to protect the confidentiality of agency deliberations—particularly those concerning pending matters—to ensure the frank exchange of advice and views, which is essential to effective policymaking. Once CEQ issues a draft guidance document, the public will have an opportunity to study, debate, and comment upon the guidance. We believe that this public participation and transparency is important and will serve the goal of improving the quality of policymaking. As this process unfolds, we hope to meet your informational needs and would welcome the opportunity to meet with you or your staff.

### Question 7

As climate change science has progressed, and the effects of climate change have become more apparent, many Federal agencies have produced analyses of the direct, indirect, or cumulative effects of proposals for agency action on U.S. greenhouse gas emissions and the effects of climate change. See, e.g., U.S. Department of Energy, "NEPA Lessons Learned" (December 2007) (describing the analysis of greenhouse gas emissions and global climate change issues in DOE NEPA documents over the past 20 years). While CEQ does not maintain a comprehensive list of all NEPA documents that analyze greenhouse gas emissions or climate change impacts, we have assembled a partial list of Environmental Impact Statements that address these issues and are attaching this list.

## Partial list of EISs addressing Climate Change

### **Medicine Bow-Routt National Forests and Thunder Basin National Grassland Inyan Kara Analysis Area Vegetation Management : Forest Service**

Homepage: <http://www.fs.fed.us/r2/mbr/projects/range/index.shtml>

Climate section: [http://www.fs.fed.us/r2/mbr/projects/range/adobe/pdf/IKAAVM\\_e\\_ik\\_deis\\_ch3.pdf](http://www.fs.fed.us/r2/mbr/projects/range/adobe/pdf/IKAAVM_e_ik_deis_ch3.pdf)

### **Environmental Impact Statements for FutureGen Project. (DOE)**

<http://www.eenews.net/Greenwire/2007/05/25/#2> or

<http://www.netl.doe.gov/technologies/coalpower/futuregen/EIS/>

### **Supplement to the Draft Environmental Impact Statement for the Gilberton Coal – To – Clean Fuels and Power Project. (DOE/EIS – 0357D-S1) (December 2006).**

<http://www.eh.doe.gov/nepa/docs/deis/eis0357d/>

### **Gilberton Coal to Clean Fuel Demonstration Project: DOE**

<http://www.gc.energy.gov/NEPA/finalEIS-0357.htm>

### **Final Environmental Impact Statement for the Orlando Gasification Project. (DOE/EIS – 0383) (January 2007).**

[http://www.netl.doe.gov/technologies/coalpower/cctc/EIS/eis\\_orlando.html](http://www.netl.doe.gov/technologies/coalpower/cctc/EIS/eis_orlando.html).

### **Draft Supplemental Environmental Impact Statement: Powder River Basin Expansion Project. (STB, Section on Environmental Analysis) (April 15, 2005).**

- **For Easy Internet Access: [www.stb.dot.gov](http://www.stb.dot.gov), Decisions and Notices, Environmental Review by Service Date (April 15, 2005), Docket Number FD 33407, Decision ID No. 35730**  
<http://www.stb.dot.gov/Decisions/readingroom.nsf/ee7b9b80c94e5bd9852572f2006a096e/704822c12d0f05e585256fe30054447d?OpenDocument>

### **Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf**

<http://www.ocsenergy.anl.gov/eis/guide/index.cfm>

### **Final Programmatic Environmental Impact Statement on: Wind Energy Development on BLM- Administered Lands in the Western United States. (FES-0511) (June 2005). No. 20050255.**

<http://windeis.anl.gov>

### **Sepulveda Pass Freeway Expansion Project: CalTrans: DOT**

[http://www.dot.ca.gov/dist07/resources/envdocs/docs/Final%20LA405DOC\\_022208.pdf](http://www.dot.ca.gov/dist07/resources/envdocs/docs/Final%20LA405DOC_022208.pdf)

### **Bison & Elk Management Plan, Grand Teton National Park: NPS/DOI**

<http://www.fws.gov/bisonandelkplan/Final%20Bison%20and%20Elk%20Management%20Plan%20and%20Environmental%20Impact%20Statement.htm>

### **Mesaba Energy Project: DOE**

<http://www.gc.energy.gov/NEPA/draft-eis0382d.htm>

### **General Management Plan: Sequoia & Kings Canyon National Park: NPS/DOI**

<http://parkplanning.nps.gov/document.cfm?parkId=342&projectId=11110&documentID=17344>

### **Mandan, Hidatsa and Arikara Nation's Proposed Clean Fuels Refinery Project, Ward County, ND: EPA. <http://www.epa.gov/region8/compliance/nepa/refineryfeis.html>**