



# ALASKA MINERS ASSOCIATION, INC.

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February 6, 2006

NEPA Draft Report Comments  
C/o NEPA Task Force  
Committee on Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

RE: NEPA Taskforce Initial Findings and Draft Recommendations

Dear Task Force Members:

The Alaska Miners Association (AMA) appreciates this opportunity to submit comments on the "Initial Findings and Draft Recommendations" of the House Resources Committee Task Force on Improving and Updating the National Environmental Policy Act (NEPA). AMA also thanks the Task Force and its staff for taking the time to acquire information and make recommendations to improve the NEPA process. AMA supports the Task Force draft recommendations with minor reservations. See attached pages for our comments.

The AMA supports the original intent of NEPA which was to provide a reasonable process for evaluating significant proposed projects on lands requiring Federal permits or approvals. However, we also believe the NEPA process is now being used as a tool by some third parties to block reasonable development of the Nation's resources and that it can be improved to benefit the interests of all stakeholders. The Task Force's draft recommendations, if implemented, provide a reasonable prescription for how to accomplish this goal.

The Alaska Miners Association is a non-profit membership organization established in 1939 to represent the mining industry. The AMA is composed of individual prospectors, geologists and engineers, vendors, small family miners, junior mining companies, and major mining companies. Our members look for and produce gold, silver, platinum, diamonds, lead, zinc, copper, coal, limestone, sand and gravel, crushed stone, armor rock, etc. Our members live and work throughout the state and have a significant interest in improving the processes used to evaluate and permit mine development.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

enclosure

## **Group 1 – Addressing Delays in the Process**

### **Recommendation 1.1: Amend NEPA to define “major federal action”**

We support this recommendation and suggest that specificity be provided for the term “substantial”.

### **Recommendation 1.2: Amend NEPA to add mandatory timelines for completion of NEPA documents.**

We strongly support this effort and suggest that a time limit also be specified for CEQ to determine the outcome of an extension request.

### **Recommendation 1.3: Amend NEPA to create unambiguous criteria for the use of Categorical Exclusions (CE), Environmental Assessments (EA), and Environmental Impact Statements (EIS).**

We support this recommendation and suggest that specific project examples be included for each category.

### **Recommendation 1.4: Amend NEPA to address supplemental NEPA documents.**

We agree that this is needed to improve the efficiency of the process.

## **Group 2 – Enhancing Public Participation**

### **Recommendation 2.1: Direct CEQ to prepare regulations giving weight to localized comments.**

This step is critical to maintain the validity of the process. Comments from local, state, and regional stakeholders directly impacted by the decision being made should receive more consideration than comments from groups and individuals not directly affected. Also, weight should be given to substantive comments versus obvious mass mailings.

### **Recommendation 2.2: Amend NEPA to codify the EIS limits set forth in CFR 1502.7.**

AMA agrees that the number of pages in an EIS should be codified. A 150 page limit for the majority of EISs seems reasonable. A maximum length of 300 pages for complex projects is also reasonable.

## **Group 3 – Better Involvement for State, Local and Tribal Stakeholders**

AMA agrees with this proposal and would suggest that Native Regional Corporations in the state of Alaska also be specified as cooperating agencies since they are large landholders in the state.

Recommendation 3.2: Direct CEQ to prepare regulations that allow existing state environmental review process to satisfy NEPA requirements.

AMA agrees with this proposal.

#### **Group 4 – Addressing Litigation Issues**

Recommendation 4.1: Amend NEPA to create a citizen suit provision.

AMA agrees with the National Mining Association that supports amending NEPA to include judicial review provisions that clarify when a potentially affected party may challenge a final agency action in the NEPA process. To have standing: (1) the affected party should have participated in the NEPA process in a substantial manner, (2) presented legitimate evidence of harm related to an agency action or decision, and (3) done so in a timely manner (within 60-90 days of the notice of final decision).

Recommendation 4.2: Amend NEPA to add a requirement that agencies “pre clear” projects.

AMA agrees with this proposal to have CEQ become a clearinghouse to monitor court decisions that affect procedural aspects of preparing NEPA documents.

#### **Group 5 – Clarifying Alternative Analysis**

Recommendation 5.1: Amend NEPA to require that “reasonable alternatives” analyzed in NEPA documents be limited to those which are economically and technically feasible.

AMA strongly supports amending NEPA to require that only “reasonable alternatives” as defined by appropriate feasibility and engineering studies be analyzed. Economic and technical feasibility must be the tests for “reasonable” to help ensure that inappropriate scenarios are not analyzed. Analysis of impractical alternatives is a waste of time and economic resources and may significantly and unnecessarily delay starting a project which may increase its cost as well.

Recommendation 5.2: Amend NEPA to clarify that the alternative analysis must include consideration of the environmental impact of not taking an action on any proposed project.

AMA agrees with this recommendation to evaluate the “no action” alternative including an assessment of the costs of taking no action. If the costs of the no action alternative are greater than the costs of undertaking a project, it should be rejected.

Recommendation 5.3: Direct CEQ to promulgate regulations to make mitigation proposals mandatory.

Flexibility should be included in these regulations that would allow for modification to mitigation requirements if new information indicates an adjustment is warranted. Information acquired during construction or operation of a given project may suggest that the original mitigation requirements are inadvisable.

Recommendation 3.1: Amend NEPA to grant tribal, state and local stakeholders cooperating agency status.

### **Group 6 – Better Federal Agency Coordination**

Recommendation 6.1: Direct CEQ to promulgate regulations to encourage more consultation with stakeholders

AMA agrees with this proposal so long as the consultation does not delay the process.

Recommendation 6.2: Amend NEPA to codify CEQ regulation 1501.5 regarding lead agencies.

AMA agrees with this proposal and suggests that the “lead agency” responsibilities be clearly established.

### **Group 7 – Additional Authority for the Council on Environmental Quality**

Recommendation 7.1: Amend NEPA to create a “NEPA Ombudsman” within the CEQ.

Recommendation 7.2: Direct CEQ to control NEPA related costs.

AMA supports both of these recommendations.

### **Group 8 – Clarify meaning of cumulative impacts**

Recommendation 8.1: Amend NEPA to clarify how agencies would evaluate the effect of past actions for assessing cumulative impacts.

Recommendation 8.2: Direct CEQ to promulgate regulations to make clear which type of future actions are appropriate for consideration under the cumulative impact analysis.

AMA heartily endorses this recommendation. Concrete proposed actions should be evaluated not those that are reasonably foreseeable. We have seldom seen so called reasonably foreseeable development scenarios included in a typical plan come to pass.

### **Group 9 – Studies**

Recommendation 9.1: CEQ study of NEPA’s interaction with other Federal environmental laws.

A study to determine how NEPA interacts with the body of environmental laws, many of which were passed after NEPA, is needed. The results of this study should be helpful in crafting a more effective NEPA process by helping to identify duplication and waste in the NEPA process.

Recommendation 9.2: CEQ Study of current Federal agency NEPA staffing issues.

AMA strongly supports the Task Force's authorization of a study and report of current federal agency NEPA staffing issues. Federal agencies must have the staffing, expertise, and administrative resources to complete the NEPA review process in a timely and efficient manner.