



February 6, 2006

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NEPA Draft Report Comments
c/o NEPA Task Force
Committee on Resources
1324 Longworth House Office Building
Washington, DC 20515

To Whom It May Concern:

The Intermountain Forest Association's Rocky Mountain Division (IFA) is a trade organization of forest products companies in Colorado, Wyoming, South Dakota, and Nebraska. Our experience and concern with NEPA pertains to the US Forest Service and the National Forests in the Rocky Mountain Region. IFA regularly participates in the NEPA process as commentators on proposed agency decisions and as interveners in NEPA-related federal court actions.

We have reviewed and assisted in the development of comments formulated by the American Forest and Paper Association. We fully support AF&PA's recommendations.

Additionally, we encourage the Task Force to consider the following comments on the draft report:

- NEPA litigation, while portrayed as negligible by some, has been used as a tool to render Forest Service decision-making more difficult. Of 600 court cases filed against the Forest Service between 1989 and 2002, 400 involved NEPA. The draft findings regarding litigation do not paint an adequate picture of this problem.
- Public participation in the NEPA process has been greatly hindered by the increased complexity of NEPA documents. The Task Force ought not to lend credence to advocacy groups who claim that modernizing NEPA would "cut out the public."
- Recommendation 1.1, regarding "major federal actions," touches only tangentially upon the underlying issue of "significance" of the effects of agency proposals. The Task Force should recommend redefining "significance" in a manner that lends statutorily-authorized deference to agency professionals.
- Recommendation 5.2 is the only recommendation that approaches addressing whether NEPA is a procedural or substantive law. Although the Supreme Court has made this distinction clear, many lower courts have not acknowledged it in their assessment of agency proposed actions and analyses. The Task Force should recommend that NEPA is amended to affirm the Supreme Court's decision and solidifies the procedural nature of the statute.

We appreciate this opportunity to comment on the Task Force's draft recommendations.

Sincerely,

Tom Troxel
Director