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NEPA Draft Report Comments
c/o NEPA Task Force
Committee on Resources
1324 Longworth House Office Building
Washington, DC 20515-6201

The Northwest Mining Association appreciates the opportunity to provide comments to the NEPA Task Force regarding the “Initial Findings and Draft Recommendations” Report issued December 21, 2005. NWMA appreciates the efforts of the Task Force and its staff to process all of the testimony and comments, and formulate an excellent staff report and recommendations.

NWMA is a 111 year old non-profit mining industry trade association based in Spokane, Washington. Today, NWMA has 1,300 members residing in 31 states and 6 Canadian provinces. Our members are actively involved in exploration and mining operations on public lands throughout the United States, especially the western states. NEPA has guided the activities of many of our members as they have conducted mineral exploration and mining activities in the western United States since the enactment of the legislation in 1970. Our members have extensive first hand experience with the National Environmental Policy Act (NEPA) and the permitting process. Our members are significantly impacted by decisions that are the direct results of NEPA, how it is implemented, and the permitting process. Thus, we are significant stakeholders in this process.

Since enactment, our members have seen material changes in the application and implementation of the law and associated regulations, and at the same time it has become increasingly inconsistent in its implementation. While a NEPA analysis has become “standard operating procedure” for our members it has also become much more cumbersome, time consuming and expensive.

As we stated in our written testimony to the Task Force, the costs, time delays and unpredictability of the NEPA process significantly impacts our members, especially small and medium sized companies and the Canadian juniors that undertake the high risk grassroots exploration and early stage development. They are an important part of the mining industry’s food chain and provide the feed stock that will be tomorrow’s producing mines operated by larger companies. Something is dreadfully wrong with a process designed to provide a “hard look” at the impacts of major federal actions affecting the human environment, that now takes five, ten and even eighteen years to complete. What NEPA sponsor, Senator Henry Jackson (D-WA), thought would be a 6-8 page document (the EIS), has, with respect to most mining projects, mushroomed to thousands and thousands of pages.

It is the opinion of the Northwest Mining Association that many of the recommendations crafted by the NEPA Task Force will help to again make NEPA an effective management tool, and provide the public a real opportunity to participate in the permitting process. We appreciate the considerable work of the Task Force, and the efforts of those individuals and organizations that provided the Task Force with advice and suggestions for improving the legislation.

Our comments relating to the specific recommendations follow. We also have additional recommendations for improving the NEPA process, which follow our comments on the specific recommendations within each group heading contained in the Task Force Report.

Group 1 – Addressing Delays in the Process

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

NWMA supports this recommendation. At the current time there is a significant difference of opinion between the various federal agencies and, in fact, between different offices within the same agency, as to what constitutes a major federal action. By establishing clear and concise criteria for what constitutes a major federal action, the process of evaluating environmental impacts and developing mitigation criteria will be improved and streamlined. We believe “major federal action” should be defined to include only new and continuing projects that would require substantial planning, time, resources, or expenditures. Adoption of this recommendation will also serve to clarify the intent and application of NEPA in the eyes of the public.

Recommendation 1.2: Amend NEPA to Add Mandatory Timelines for the Completion of NEPA Documents.

NWMA strongly endorses this recommendation and the maximum timeframe suggestion of 18 months for completion of an Environmental Impact Statement (EIS) and 9 months for completion of an Environmental Assessment (EA). Also, a specific time limit of no more than 60 days for completing the Categorical Exclusion process should be included. We also support the Council on Environmental Quality’s (CEQ) suggestion that extensions of no more than 6 months for an EIS and 3 months for an EA be granted, but only under the most unusual of circumstances. We also believe that agencies should receive only one extension. If governmental agencies fail to comply with these statutory timeframes, then the NEPA review process should be deemed completed with an affirmative Record of Decision.

Other mineral producing countries (e.g. Chile) have firm timelines in their environmental assessment and permitting process. Our members have discovered that firm timelines in the permitting process facilitate raising the capital required for mineral development and lower the cost of capital without diminishing environmental performance.

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

Adoption of this recommendation will clarify and remove uncertainties from the process for applicants and federal land managers. NWMA supports this recommendation. We further support, in the strongest possible way, the suggestion that CE’s be utilized by the land managers in situations where environmental impacts are temporary, easily mitigated and/or minimal, like most mineral exploration activities. Clear guidance from CEQ would be helpful.

Where a project proponent has already completed mitigation or has included sufficient mitigation in the proposed action to avoid significant impacts that would normally require preparation of an EIS or, in some cases, even reduce those impacts below the threshold for preparation of an EA.

Recommendation 1.4: Amend NEPA to address supplemental NEPA documents.

NWMA supports the recommendation to limit supplemental NEPA documentation only to those situations where substantial changes in the proposed actions are relevant to environmental concerns, or when there are significant and substantially new circumstances that may impact the applicant's proposed action.

New Recommendation: Reaffirm the Procedural Intent of NEPA as a Planning Tool and process to evaluate the impacts of major federal actions on the human environment.

NEPA was never intended to be a substantive environmental law or an environmental protection statute as many contend. The United States Supreme Court has repeatedly stated that the only provisions of NEPA subject to judicial review are the procedural requirements. Further, in *Robertson v. Methow Valley Citizens Council*, 490 US 332 (1989), the Supreme Court made it clear that NEPA does not include a substantive duty to mitigate adverse environmental effects.

Despite these clear pronouncements, many federal agencies continue to use NEPA to require mitigation that is not required to comply with the plethora of substantive state and federal environmental laws and regulations. Given the authority of the lead agency in the NEPA process, project proponents feel compelled to comply rather than risk further delays and incurring the wrath of the agency that will issue the final EIS and Record of Decision.

We believe amending NEPA to re-affirm and clearly provide that NEPA is procedural and may not be used to withhold, deny or impose conditions on any permit required pursuant to substantive state and federal environmental laws and regulations will be a major step forward in improving the efficiency and timeliness of the NEPA process. Any changes to a proposed permit or the denial of a permit would have to be tied directly to a specific substantive environmental law or regulation, *e.g.*, the Clean Air Act, the Clean Water Act, etc.

New Recommendation: Amend NEPA to prevent redundant or duplicative NEPA analysis.

One of the many problems with NEPA is redundant or duplicative analysis. One way to address this problem is to provide that agency permitting processes that are the "functional equivalent" of a NEPA analysis satisfies the requirements of the law. The environmental performance and reclamation standards embedded in the Federal Land Management and Policy Act, the Forest Service Organic Act, and their corresponding regulations, supplemented by additional permit requirements under the Clean Air Act (CAA), Clean Water Act (CWA), Endangered Species Act, and Safe Drinking Water Act, provide the functional equivalent of a NEPA review for proposed exploration and mining operations on federal land. Altogether, these laws ensure the full and thorough consideration, both substantively and procedurally, of environmental impacts from mining operations on federal lands regardless of the NEPA process.

A functional equivalence exception would allow these agencies to more efficiently and effectively focus resources on the development of our nation's natural resources, while still preventing and minimizing environmental impacts as originally intended under NEPA. Congress enacted NEPA as a planning tool for federal agencies, mandating that agencies consider the environmental impacts of their actions. This purpose is now served by the environmental permitting processes currently applied by federal agencies to mining projects under other statutory schemes.

There is precedent to support this recommendation. Congress has exempted the Environmental Protection Agency from completing a NEPA review for certain permitting decisions under the CWA and CAA for this very reason. The Task Force possesses an important opportunity to recognize the benefits of reducing duplication in the environmental review process through the application of the functional equivalence exemption outside of EPA permitting decisions. Given these benefits, NWMA urges the Task Force to recommend that Congress amend NEPA to include a legislative exemption founded on the functional equivalence doctrine as advocated above.

New Recommendation: Increase the use of programmatic documentation to decrease the need for EIS's.

Too often, federal agencies become overwhelmed by the volume of NEPA activity at the state and federal field office levels because of an increased use of EISs over the simpler, more cost-effective EAs. The agencies need guidance aimed at reducing the number of EISs prepared.

One way to accomplish this would be through increased use of programmatic NEPA documentation. Many issues common among resource development activities could be assessed programmatically, in the context of Federal land managers' Forest Plans or Land and Resource Management Plans. A few examples include: identification of mining districts; the inclusion of wind generation resource monitoring; basic mine closure techniques, etc.

Group 2 – Enhancing Public Participation

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

NWMA supports this recommendation. We believe it will improve the tenor of public participation in the NEPA process. It makes sense to give local interests a greater say over decisions that will directly affect them. This is especially true for those who live in rural resource-dependent communities. Many of these communities are surrounded by federal public land and depend on mining, oil and gas production, ranching and logging activities on public lands to provide jobs, tax revenue and infrastructure support. These activities are in the local community's backyard and they generally understand the impacts and are in a better position than outside groups or individuals to provide comments that will improve the project and its environmental impacts.

The American political process provides a useful analogy of why it is appropriate to accord local interests a greater say in the NEPA process. Just as constituents have more influence with their specific Members of Congress than non-constituents; comments from "constituent stakeholders" should carry more weight in the NEPA process than comments from other stakeholders.

Although constituents have greater access to their congressional delegation than to members of Congress who represent other states, everyone has a right to contact any member of Congress to express a viewpoint. Non-constituent views are not typically given as much consideration in the decision-making process as views expressed by constituents.

Furthermore, an agency would be better equipped to mitigate skewed comments resulting from organized letter writing campaigns by focusing more on the quality and substance of the comments, rather than their quality. Congress or CEQ should provide improved guidance to agencies for evaluating a petitioner's standing in the proceedings to ensure comments focus on the specific issues and alternatives under consideration.

Recommendation 2.2: Amend NEPA to codify the EIS page limits in 40 CFR 1502.7.

NWMA strongly supports this recommendation. NEPA sponsor Senator Henry Jackson (D-WA) envisioned that the EIS would be a 6-8 page document outlining the potential environmental impact of proposed federal actions. Today, NEPA documents typically run hundreds to thousands and thousands of pages. Agencies believe they are compelled to include all possible boilerplate and minutia to make the NEPA documents 100% bullet-proof. The result is that NEPA documents are being written to withstand legal instead of scientific scrutiny.

Refocusing NEPA documents on scientific and environmental analysis, rather than legal analysis will produce better NEPA documents and enable the agencies to comply with these page limitations.

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

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

NWMA urges a cautious approach. While we understand and support the early involvement in the NEPA process of all public, private and governmental entities that intend to comment on a project, granting cooperating agency status to specific groups could result in a more cumbersome process. Each request should be judged on its merits and must contribute to a more efficient and time sensitive process. State, local and tribal stakeholders who do not participate in the scoping and public comment stages of the NEPA process should not be allowed to comment or enter the process after the public comment stage has closed.

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

NWMA supports the “functional equivalents” concept. If a state has a state environmental policy act or an environmental review/permitting process similar to NEPA, then NEPA regulations should allow that process to satisfy similar NEPA requirements. This will result in a more efficient, streamlined less costly process. In many cases today, state and federal agencies enter into Memorandums of Understanding (MOU) to allow one agency to be the lead agency. NWMA supports codification to bring consistency and cost effectiveness to the process.

Group 4 – Addressing Litigation Issues

Comment: The data cited in the Task Force Report on NEPA litigation presents an incomplete picture of the frequency of NEPA litigation.

Page 11 of the Task Force’s December 2005 Initial Findings and Draft Recommendations reports states: “The statistics reveal that there is relatively little in the way of NEPA lawsuits as a percentage of the total number (*sic*) EISs filed each year.” The report goes on to cite some Council on Environmental Quality (CEQ) statistics on the number of NEPA lawsuits that resulted in injunctions.

Although the number of lawsuits that resulted in injunctions may be fairly low, the total number of NEPA lawsuits is not. Table 1 presents data from CEQ’s NEPA website on the number of NEPA documents litigated in the last several years. It is evident from Table 1 that during the period 2002 – 2004, over half

of the EIS documents finalized in this interim were litigated. This suggests that project proponents face at least a 50-50 chance of having NEPA documents pertaining to their projects challenged.

The fact that a comparatively smaller percentage of these challenges resulted in injunctions is little comfort. Project proponents and federal agencies expend enormous resources in responding to NEPA lawsuits and threats of NEPA lawsuits. Moreover, some agencies such as the U.S. Department of Agriculture Forest Service have NEPA procedures that automatically stay a project during the administrative consideration of a NEPA challenge. Thus, even without a court injunction, NEPA litigation results in significant delays and expense.

Table 1
NEPA Lawsuit Statistics

Year	Number of Final EISs	Number of Lawsuits	Percent Litigated
2002	250	150	60
2003	269	130	48
2004	298	150	50
Total	817	434	53

Source: <http://ceq.eh.doe.gov/nepa/NEPA2002LitigationSurvey.pdf>
<http://ceq.eh.doe.gov/nepa/NEPA2003LitigationSurvey.pdf>
<http://ceq.eh.doe.gov/nepa/NEPA2004LitigationSurvey.pdf>

Table 2 shows the number of EIS documents that have been prepared since NEPA's inception in 1970. Starting in about 1983, the number of EISs finalized each year started to decline dramatically. It is not likely that there is less need today for projects that are major federal actions compared to twenty years ago. Rather, this reduction suggests that it has become harder and harder to finalize a NEPA document and illustrates how the NEPA process has spun out of control with time.

Table 2
Environmental Impact Statements
Filed 1970 Through 2004

Year	No. of Draft EISs	No. of Final EISs	Total
1970-1972			5834
1973			2036
1974			1965
1975			1881
1976			1802
1977			1568
1978			1355
1979	585	688	1273
1980	440	526	966
1981	436	597	1033
1982	359	449	808
1983	291	368	659
1984	268	309	577
1985	232	317	549

Year	No. of Draft EISs	No. of Final EISs	Total
1986	216	305	521
1987	177	278	455
1988	180	252	432
1989	167	203	370
1990	228	250	478
1991	215	242	457
1992	238	275	513
1993	238	227	465
1994	247	285	532
1995	359	248	607
1996	298	304	602
1997	252	246	498
1998	280	247	527
1999	266	235	501
2000	252	221	473
2001	274	218	492
2002	284	250	534
2003	325	269	594
2004	299	298	597

Source: http://ceq.eh.doe.gov/nepa/EIS_Statistics_1970_to_2004.pdf

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

Under the current NEPA process, project opponents can delay the mine permitting process for years through frivolous appeals and litigation with no risk and little investment. Meanwhile the project proponent and the community that depends on the jobs and economic contributions the mine will provide bear all of the risks and costs of the delays. The costs of capital, the project’s rate of return and commodity price risk are adversely impacted by the delays caused by frivolous appeals. Steps must be taken to bring fairness and accountability to the NEPA appeal and judicial processes.

NWMA would support Recommendation 4.1 *if and only if* the stated criteria in the Task Force staff’s report are included in the final legislation and/or regulations. Most importantly, there must be a narrowly construed “standing” provision that requires the citizen’s or organization’s nexus to the proposed federal action to be substantial before standing to sue can be established.

Furthermore, judges generally need more specific guidance with which to evaluate and rule on NEPA decisions. The Administrative Appeals Act’s (APA) “arbitrary and capricious” standard is unacceptably vague in the context of NEPA and contributes to excessively long NEPA documents being written to withstand judicial rather than scientific scrutiny.

In addition to the criteria set forth in the Task Force staff’s report on pages 26-27, project opponents should be required to post a bond to compensate the project proponent and agency for the costs incurred as a result of the delay caused by an unsuccessful appeal or lawsuit challenging an agency decision.

Many times project opponents are able to recover their costs and attorneys fees under the Equal Access to Justice Act when they are successful in challenging an agency's NEPA in court. This should be a two-way street. Project opponents who appeal and/or sue to challenge an agency decision should have to post a bond and pay both the project proponent's and the agency's costs and attorneys fees if the agency decision that has been through the NEPA process is upheld.

Recommendation 4.2: Amend NEPA to add a requirement that agencies "pre-clear" projects.

NWMA supports this recommendation.

Group 5 – Clarifying Alternatives 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.

NWMA strongly endorses this recommendation. We believe an unbiased and comprehensive analysis should be conducted and that revenue earned by the proposal should be included in the analysis to ensure that the public fully understands the economic well as environmental impacts of the project.

In addition to limiting the alternatives that are analyzed, this limitation also should apply to the alternatives proposed by an agency. Project opponents use the NEPA process as **THE TOOL** to delay a project long enough that it becomes uneconomic. One tactic project opponents use is to force an agency to consider so many alternatives, such as different locations and project sizes, that the process is delayed and expenses are increased.

Analyzing numerous alternatives often is ill-suited for mineral development activities. Geological factors largely dictate where such activities can occur. Satisfying the current alternative analysis requirement ends up being a time-consuming paper exercise that does not add much value to the environmental analysis.

NEPA reforms should ensure the alternatives proposed by an agency are reasonable and are focused on the actual purpose and needs of the project under consideration. This will ensure that only the most reasonable, technologically achievable and economically feasible alternatives are considered.

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.

NWMA strongly supports a more thorough and effective analysis of the "no action" alternative in any NEPA review. Under current rules this alternative is not carefully assessed, even though it is among the alternatives the land managers may select. The no action alternative should be rejected if, on balance, the impacts of not undertaking a project would outweigh the impacts of executing the project or decision.

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

NWMA is generally supportive of this recommendation, but concerned about the potential lack of flexibility in mitigation requirements where a private applicant is involved. It is counter-productive for a private applicant to face the threat of legal action to adjust mitigation proposals where new data and information support changes. The regulations should provide necessary flexibility and a mitigation

proposal amendment process. Proposed amendments to mitigation requirements should be allowed only from the private party or the lead agency involved.

New Recommendation: Require NEPA analyses to include evaluating compliance with the Mining and Minerals Policy Act of 1970 and the Domestic Minerals Program Extension Act of 1953.

The Mining and Minerals Policy Act of 1970 (30 USC § 21(a)), states that it is the continuing policy of the federal government to foster and encourage private enterprise in the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries.

The Domestic Minerals Program Extension Act of 1953, (50 USC § 2181), is very relevant to our Nation's current vulnerability to access strategic and critical minerals, and the potential adverse impact of that vulnerability on national and homeland security. This act states, in part:

It is therefore declared to be the policy of the Congress that each department and agency of the Federal Government charged with responsibilities concerning the discovery, development, production, and acquisition of strategic or critical minerals and metals shall undertake to decrease further and to eliminate where possible the dependency of the United States on overseas sources of supply of each such material.

All NEPA decisions should be required to evaluate compliance with both of these Acts of Congress

Group 6 – Better Federal Agency Coordination

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

NWMA questions the need for this recommendation, as this concept is a fundamental component of the NEPA process. In the experience of NWMA and its members, the involvement of the public has been a paramount concept.

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

NWMA supports this recommendation. In addition, we urge that this recommendation be enhanced by a clear charge that the lead agency coordinate the NEPA-related proceedings of the various governmental entities, including: joint planning processes; joint environmental research and studies; joint public hearings (except where otherwise provided by statute); and joint environmental impact statements. All participating agencies should be subordinate to the lead agency.

The lead and all participating agencies' must be focused on the fact that NEPA is a *process* statute. EPA, in particular, has a history of treating NEPA as a proxy for a permitting regime and has sought to inject inappropriate considerations into the process. Congress needs to reiterate clearly that NEPA is a planning and a review process and that agencies' input should reflect this fact.

New Recommendation: EPA's role in the NEPA process needs to be re-evaluated and even eliminated - especially in states with Clean Water Act and Clean Air Act primacy.

The U.S. Environmental Protection Agency (EPA) reviews NEPA documents prepared by other federal agencies under the authority of Section 309 of the Clean Air Act. The need for EPA to have a role in the NEPA process should be examined, especially in states with primacy for the Clean Air Act and Clean Water Act. In primacy states, EPA's NEPA review role should be eliminated or substantially revised because it is redundant and does not add any additional measure of environmental protection.

EPA's comments on NEPA documents often focus on many aspects of projects that are provided for under state water and air protection programs and other specific permitting processes applicable to the project. These comments from EPA would be more appropriate under the detailed permitting processes. Additionally, EPA should defer to the states as the experts on how the regulatory programs work in their states.

Clean Air Act and Clean Water Act permitting programs, as administered by states with primacy for these regulatory programs, ensure compliance with all applicable federal and state requirements. EPA's oversight role in monitoring these permit programs provides sufficient federal regulatory review and control. Moreover, it is not EPA's role to ensure compliance with NEPA. That is the responsibility of the lead federal agency charged with preparing the NEPA document.

All too often, EPA's comments on NEPA documents are not constructive. They are typically very critical of agencies' efforts. Regrettably, EPA's comments have a "gotcha" tenor, taking potshots at the federal agencies' documents.

Responding to negative and problematic comments from EPA creates serious problems for federal agencies, often resulting in significant delays in the NEPA process. EPA's NEPA comments also have the potential to create considerable public confusion about the environmental impacts associated with and the regulatory requirements for a project. In doing so, EPA arms project opponents with ample ammunition with which to challenge projects.

Part of the problem with EPA NEPA reviews may stem from the fact that the agency has a NEPA review branch that is separate from the EPA departments charged with issuing or reviewing project permits. For example, EPA's comments on a draft NEPA document may be very critical about the lack of detailed information about how projects involving a discharge to surface water will meet water quality requirements. These comments reflect a lack of understanding of NEPA's purpose as a disclosure document. Instead, these comments seem to incorrectly treat NEPA as a permitting process.

Additionally, these comments are typically offered in a vacuum, as if the discharge were not governed by a thorough and stringent regulatory program, (e.g., the National Pollutant Discharge Elimination System permit program.). Rather than adding anything of value to the environmental analysis, these types of comments are problematic and misleading. They create public doubt about whether there are adequate protections for air quality and water quality for projects, even though these projects must obtain Clean Air Act and Clean Water Act permits.

In some cases, EPA appears to be offering these types of comments in an attempt to expand its regulatory authority over projects, having lost sight of the fact that NEPA is a disclosure and decision-making process and not a permitting process. Because NEPA is not a permitting process, EPA should not be allowed to use it as such.

In other cases, it seems as if EPA is simply trying to obstruct projects. Regardless of whether the agency is seeking to expand its authority or to obstruct projects, both objectives are unacceptable.

NEPA should be amended or new administrative policies developed to preclude EPA from submitting comments that attempt to regulate through NEPA or that contribute confusion, with the apparent purpose of fomenting public opposition. Such comments hurt communities that need the jobs that proposed projects represent. EPA's obstructionist role in the NEPA process is bad for the economy on the local, state, and federal levels. Additionally, EPA's role in reviewing NEPA documents is a waste of taxpayer money, especially in states with primacy for administering the federal Clean Air and Clean Water Acts.

Group 7 – Additional Authority for the Council on Environmental Quality

Recommendation 7.1: Amend NEPA to create a “NEPA Ombudsman” within the Council of Environmental Quality.

NWMA supports this recommendation.

Recommendation 7.2: Direct CEQ to control NEPA costs.

NWMA supports this recommendation in the strongest possible way. As suggested in the Task Force's report, NEPA costs have grown well in excess of the rate of inflation, and the applicant's participation in cost sharing (or shouldering all of the costs) has become a “blank check”.

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 effects.

NWMA recognizes the importance of adding a provision to NEPA that would establish that an agency's assessment of existing environmental conditions would serve as the methodology to account for past actions.

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

NWMA agrees with the recommendation that CEQ prepare regulations that would modify the existing language in 40 CFR 1508.7 to focus analysis of future impacts on concrete proposed actions rather than actions that are “reasonably foreseeable.”

Group 9 – Studies

Recommendation 9.1: CEQ study of NEPA's interaction with other federal environmental laws.

NWMA strongly supports the recommendation that CEQ be directed to conduct a study to evaluate how NEPA interacts with the plethora of environmental laws and regulations enacted since NEPA, with a focus on minimizing the duplication in the evaluative processes of NEPA and those environmental laws.

Recommendation 9.2: CEQ study current federal agency NEPA staffing issues.

NWMA supports this recommendation. The study should include the need to have personnel who are well versed in the General Mining Laws and trained in geology and/or mining engineering involved in conducting the NEPA analysis for mineral development projects.

Recommendation 9.3: CEQ study of NEPA's interaction with state "mini-NEPAs" and similar laws.

NWMA supports this recommendation. Eliminating the amount of duplication and overlap in the environmental evaluation process strengthens the NEPA process.

Conclusion:

NWMA appreciates the opportunity to provide these comments to the Task Force. We look forward to assisting the Task Force in its continuing efforts to update and improve the NEPA process. If we or our members can be of assistance in providing more information, we would welcome the opportunity.

Sincerely,



Laura Skaer
Executive Director