

TEXAS COMMITTEE ON NATURAL RESOURCES (TCOAR)
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January 29, 2006

To: The NEPA Task Force
Committee on Resources
1324 Longworth Office Building
U.S. House of Representatives
Washington, DC 20515

Fr: Larry D. Shelton, Forest Campaign Director
Texas Committee on Natural Resources

Please accept the following comments on the Draft Recommendations of the NEPA Task Force on behalf of Texas Committee on Natural Resources (TCOAR), the 35-year-old statewide conservation which I represent, and also as my personal comments. These comments are in addition to my testimony presented to the NEPA Task Force in writing dated July 23, 2005, and to my oral testimony presented at the hearing in Nacogdoches, Texas, on the same date.

In these comments I reiterate my support for retaining the integrity of NEPA and also offer specific responses to some of the committee's recommendations. With the passage of NEPA our nation sought to establish a comprehensive and coordinated environmental policy, prevent unnecessary environmental impacts and allow public input on significant environmental actions. TCOAR is strongly committed to retaining these principles at the core of NEPA. NEPA embraces a view and belief that transcends the idea that our environment is merely a collection of economic resources. Americans treasure the recreational, aesthetic and therapeutic resources of the natural landscape in pursuit of their own personal values. NEPA acknowledges both the comprehensive values of the environment and our important relationship to it. TCOAR opposes any effort by the NEPA Task Force to diminish the important values of a clean and healthy environment or to compromise sound environmental policy by allowing economics or other parameters to dominate or over-influence the decision making process.

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SPECIFIC RESPONSES TO NEPA TASK FORCE RECOMMENDATIONS:

Group 1

Recommendation 1.1 – Define “major federal action”.

Such definitions should be available for public review and comment prior to adoption.

Recommendation 1.2 – Mandatory timelines for the completion of NEPA documents.

The aim for the NEPA process should be products of higher quality and usefulness. The recommendation to mandate timelines for completion of NEPA documents does not ensure that the resultant documents would necessarily be of higher or even adequate quality or usefulness. TCONR oppose the implementation of mandatory timelines without guidelines to assure adequate and relevant documents are actually produced.

Recommendation 1.3 – Create unambiguous criteria for the use of Categorical Exclusions, Environmental Assessments and Environmental Impact Statements.

Such criteria should be subject to public review and comment prior to adoption.

Group 2

Recommendation 2.1 –Prepare regulations giving weight to localized comments.

TCONR opposes this recommendation as both ambiguous and limiting to the rights of Americans to participate in the democratic process. The recommendation does not define “local” or “directly affected”. Public lands encompass diverse resources held in trust for all Americans. These lands guard our collective natural heritage. Decisions and impacts affecting public trust, heritage, and health are the business of all Americans. Local decisions may also affect larger regions or even states. This recommendation is counter to NEPA’s intent to have a comprehensive environmental policy.

Recommendation 2.2- Codify page limits set forth in 40 CFR 1502.7.

Our comments are the same as for Group 1 – 1.2. No limits should arbitrarily be set that do not ensure the adequacy and usefulness of the document.

Group 4

Recommendation 4.1- Create a citizen suit provision.

TCONR opposes some of the provisions outlined under this recommendation.

1) Require appellants to demonstrate that the evaluation was not conducted using the best available information and science.

This requirement does not acknowledge the reality that decisions and actions reflect personal and societal values and value systems. Science is a tool that may be used to affirm a particular outcome; it is not a decision-making process for public policy in itself. For example science may be able to demonstrate that the same tract of land is well suited for forestry, agriculture, poultry houses, a landfill or a public park. Other factors beside science must be examined to fully evaluate the relative merits of each of these potential land uses. By the standards of this recommendation the presence of residential housing adjacent to the tract would not affect its “scientific” suitability for large-scale poultry production, but the social impact of its location would be considerable. This recommendation would inhibit the rights of citizens to assert and protect their personal values and acknowledged values of our society. TCONR strenuously objects to the adoption of this provision as the standard for eligibility for judicial review.

2) Prohibit a federal agency – or the DOJ acting on its behalf - to enter into lawsuit settlement agreements that forbid or severely limit activities for businesses that were not part of the initial lawsuit. Additionally any settlement discussions involving NEPA review between a plaintiff and defendant federal agency should include the business and individuals that are affected by the settlement.

This provision appears to arbitrarily bestow certain rights or privileges on business interests that are not similarly granted to all. If a business interest sues a federal agency, are opposing interest groups and individuals granted the same privilege? This provision appears to acknowledge an entitlement of businesses to exploit the natural resources of this country for profit. Federal resources belong to all Americans and TCONR strongly objects to any proposal that appears to prioritize private economic interests over the values and interests of all Americans at large.

TCONR would like to express its appreciation for the work of the Task Force on Improving NEPA and for the opportunities to testify and comment on the proposed changes.