



Committee on Natural Resources U.S. House of Representatives

Chairman Doc Hastings

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GAO Audit of the National Environmental Policy Act Reveals Lack of Accountability and Transparency

Hastings: Costly, Abusive Lawsuits & Endless Red Tape Hurt Job Creation

WASHINGTON, D.C. – The Government Accountability Office (GAO) today released a comprehensive [audit](#) of the National Environmental Policy Act (NEPA). The audit found that the federal government does not have a system to track data and costs associated with performing NEPA reviews, NEPA delays are lengthy and vary agency to agency, and that litigation is a major driver in the environmental review process.

The audit was performed at the [request](#) of House Natural Resources Committee Chairman Doc Hastings (WA-04), Public Lands and Environmental Regulation Subcommittee Chairman Rob Bishop (UT-01), Energy and Commerce Committee Chairman Fred Upton (MI-06), Armed Services Committee Chairman Howard “Buck” McKeon (CA-25), and Transportation and Infrastructure Committee Chairman Bill Shuster (PA-09).

“This report confirms that the federal government can’t even track how many lawsuits are caused by NEPA or how much it costs taxpayers to fund never-ending studies. Costly, abusive lawsuits and endless government red-tape caused by NEPA harm new job creation, and there is a clear need to improve and modernize the law to ensure environmental reviews are completed in an efficient and timely manner so responsible decisions can be made on projects that will lead to new jobs and a growing economy,” **said Natural Resources Committee Chairman Doc Hastings (WA-04).**

“This report substantiates concerns that the federal government has no system to track time or costs associated with NEPA, which is one of the most expansive regulatory laws in the country. The findings of this report are not insignificant and deserve to be given considerable attention and oversight moving forward. The National Environmental Policy Act is important for many reasons, however, I remain concerned about the exorbitant costs and delays associated with the process. I am also very troubled by the constant use of NEPA as a litigious weapon to halt or delay projects that wealthy special interest groups don’t like. This report will be instrumental as we work toward finding solutions for some of the biggest problems plaguing this 70’s-era law,” **said Subcommittee Chairman Rob Bishop (UT-01).**

Summary of key findings included in the report:

Costs

- GAO report confirms that no reliable data exists on the costs of the National Environmental Policy Act (“NEPA”).
- Agencies do not track the number of analysis performed each year required by NEPA.
- Agencies do not routinely track the total cost of performing analysis required under NEPA.
- According to the Department of Energy, the cost paid to contractors (not including Agency time and resources) for an Environmental Impact Statement averages to \$6.6 million but is as much as \$85 million.
- Government-wide information is intended to be tracked by the EPA but GAO found this information to be inconsistent and unreliable.
- The time it takes to conduct an Environmental Impact Statement is growing; and now takes an average of 4.6 years to complete. GAO uses data from the National Association of Environmental Professionals to show that between 2000 and 2012 the total annual average preparation time it took an agency to complete an EIS increased at an average rate of 34.2 days a year.

Litigation

- GAO confirms that most plaintiffs are “public interest groups” defined by CEQ as “citizen groups and environmental nongovernmental organizations.”
- GAO confirms that litigation itself and the delays it causes are often as important to plaintiffs as whether they “win” in court.
- GAO confirms that no agency, including Department of Justice, is tracking all information related to litigation under NEPA or the amount of taxpayer dollars spent on litigation by each Agency.
- DOJ’s Case Management System only tracks limited information on cases handled by the Environment and Natural Resources Division.
- When Chairman Hastings and Chairman Bishop asked DOJ for information about NEPA litigation in May 2013, they were told that between FY 2009 and March 2013, there were 1,022 cases open during that period and more than \$22 million spent on attorney fees for NEPA cases. This is only the limited information available in the Case Management System and therefore the numbers are likely much higher. This amount is attorney fees paid to plaintiffs only and does not include the money spent on agency staff and resources on these cases. (Information received September 25, 2013).

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