

**Statement of Ray Clark
RiverCrossing Strategies**

**Before the
Committee on Natural Resources**

United States House of Representatives

Hearing

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Good morning Chairman Bishop, Ranking Member Grijalva, and Members of the Committee. Thank you for the opportunity to appear before you today to discuss the Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas (GHG) Emissions and the Effects of Climate Change in NEPA Reviews

I began my career at an Army installation over 35 years ago helping develop the first environmental program at that installation. I wrote and reviewed NEPA analyses as part of that and before I left I was responsible for the power production and energy program at the facility, as well as the management of natural resources and environmental program. During this period the Army constructed a Chemical Decontamination Training Facility, the only one in the world and I headed up a team that prepared the NEPA analysis and was responsible for getting the facility permitted.

In 1985, I moved to the Assistant Chief of Engineers office at the Pentagon, and then to the Secretary of the Army's office. I wrote the Army's first NEPA regulation during this period and was part of the senior level team that prepared the EISs to destroy chemical

weapons and to advance the Army's Biological Defense Research Program, all the analyses for base closure and realignment, and many other controversial and necessary programs for national defense.

In 1992, during the President George H.W. Bush Administration, I was asked to come to the Council on Environmental Quality and was asked to stay after President Clinton took office. Part of my job at CEQ was to develop NEPA guidance on topics such as cumulative effects analysis, but most of my career has been related to environmental policy around matters such as Army infrastructure and environmental program and policy development.

In 1999, President Clinton appointed me as the Principal Deputy Assistant Secretary of the Army for Installations and Environment. At the end of the Clinton Administration, I was asked by Secretary Rumsfeld to stay over to help with the transition of his facilities management team.

The firm I developed in 2001 worked on a number of federal agencies NEPA analyses. And I have worked ever since trying to improve the management of NEPA analyses. I think people will tell you I am not a fan of voluminous documents, nor am I fan of unnecessary delay. I developed a program at Duke University in the Duke Environmental Leadership Program to teach young and emerging leaders how to develop programs that were based on better decisions, not better documents. I led that program for over 20 years.

I come to address this committee on whether I think CEQ guidance is incorporating climate change into NEPA analyses is appropriate and whether I such analysis can be done in a practical and timely manner. Finally, to provide my honest assessment of what I would advise a client who will face this guidance (and I have at least one client who will).

I do support CEQ providing the agencies with guidance on how to incorporate climate change into NEPA analysis. It was the House Merchant Marine and Fisheries Committee more than 45 years ago that reported out a bill to require that we use new and emerging science about the environment to advise decision makers within government about courses of action. It was this committee that responded to the anomalies like rivers catching fire, oil spills along our coasts, garbage piles in cities, and no swimming signs along many of our coasts.

It was this Committee that sheperded NEPA through the legislative process and got it passed by a staggering margin that was supported by both parties. One of the major contributions to the statute was the Chairman of the House Merchant Marine and Fisheries Committee's insistence that there be established a Council on Environmental Quality in the Executive Office of the President.

Climate change falls squarely into consideration in a NEPA analysis. Scientists and the Supreme Court have said that greenhouse gases are a pollutant. These are precisely the

kind of issues NEPA and CEQ regulations intended for agencies to assess. While many may say that few agencies are going to emit anything significant, the truth is that it may be individually minor, but it is the collective number of small actions that lead to a cumulatively significant impact. As important, is that agencies should understand the impacts that climate change will have on federal facilities and think about how to design and site facilities. Most agencies are already doing this based on their own understanding of resilience and adaptation.

I support CEQ's efforts because I think it about better governance. Government is supposed to answer to its citizens and be transparent. NEPA has helped communities get answers from the federal agencies operating in their communities. In many ways that is NEPA's major success.

I support CEQ's efforts because I think it will lead to better investments. The government is, after all, using other people's money. The money we spent to build facilities in the Army went through a long and arduous process to get approval and while I was there when many proposals were disapproved, frankly because some of them were just dumb ideas.

I can tell you today that when the Army is studying where to site and how to build facilities around the world they are already factoring in rising sea levels, storm surge expansion onto land, and increasing drought frequency. It is common sense that they consider and plan for these impacts before spending taxpayer money. CEQ's guidance

will not change the Army's dedication to this, but it will help bring structure and consistency to those efforts and reduce confusion.

I support CEQ's efforts because I think it will lead to better decisions, not better documents. The purpose of NEPA is to make sure in any proposal that is undertaken by federal agencies balance all the costs including mission, environmental, and social costs. Any federal proposal should start a conversation with the affected community. And that conversation should lead to a better decision and in the best of worlds the project makes the community a better place to live.

I support CEQ's efforts because guidance to the agencies is overdue. Since 1997 CEQ has struggled with guidance that agencies have been seeking. If there is criticism to be aimed at CEQ it could be that it has taken this long to issue guidance. They have been asked by agencies, the practitioner community, and finally petitioned. In the face of confusion and controversy, they have been pretty methodical, thoughtful and not rushed to judgment. They have sought advice from scientists and agencies, but they are getting close to deserving the fair criticism of it being overdue in their responsibility to help the agencies with some clarity

If not now with guidance, when? Never? Absent this guidance would agencies take climate change into account? Most agencies are very far along in considering climate change in their day-to-day operations. The Chief of the Corps of Engineers, LTG Bostick recently said the Corps is translating science into policy and adapting new

infrastructure to withstand changes in climate. They are also looking at existing infrastructure to see where it is vulnerable to changing climate. They are moving on.

Other agencies need guidance. If they don't get this guidance, they will needlessly spend more time and money and they will face litigation. Either the Executive Branch designs an approach or the courts will and judges will establish precedents that perhaps no one wants to see. A lack of guidance does not stop lawsuits, it encourages them.

My sense, based on my own experience, is that we are in a similar environment when agencies were confused about how to assess cumulative effects and they were getting litigated. I headed up a team that produced the 1996 CEQ guidance that by all accounts helped the agencies and CEQ improved on that guidance in 2007.

My final point is that I do think this analysis can be done in a practical, timely manner. Much like the cumulative effects guidance, there were some who thought it would add much more time. The opposite is true; The reality is that this new guidance does not change the approach to NEPA analysis in any meaningful way; it simply requires taking climate change into account as an integral part of designing new proposals. Every step of the current NEPA process, scoping, alternatives analysis and impact analysis simply requires thought about how the project is designed. There should be a better project because they took it into account.

The opportunity in this guidance is that we will have better siting and design of facilities, we may move to a more efficient method of approaching NEPA by preparing programmatic analyses and integrating NEPA analyses into the agency planning process, and the federal government will do its part in adapting to the future.

I will be happy to answer any questions you may have.