

Testimony of Nancy H. Sutley
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Insular Affairs
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Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee, thank you for the opportunity to discuss the President's Fiscal Year 2014 Budget request for the Council on Environmental Quality (CEQ). The President's budget reflects the importance of safeguarding our environment and strengthening our economy by investing in high-tech manufacturing and innovation, clean energy and infrastructure, while cutting red tape to help businesses grow. The budget also focuses on living within our means, which is why CEQ's budget request includes a reduction from the fiscal year 2012 level.

I'd like to focus on a key area of the President's budget priorities – cutting red tape to help businesses grow. As you know, CEQ plays a coordinating role among Federal agencies under the National Environmental Policy Act (NEPA). We support NEPA's goals of giving communities the opportunity for input into Federal decisions that affect them, and of ensuring that those decisions are informed by analysis of alternatives and impacts for projects and activities. CEQ advances those goals by working to avoid redundancy and conflict, and by fostering an efficient, cohesive environmental policy. We believe that better agency collaboration and coordination, combined with good guidance to implement existing authorities and missions in an efficient manner, leads to better outcomes for those doing business with the Federal government and communities affected by Federal decisions, as well as a healthier environment and savings for the taxpayer.

Under this Administration, CEQ has been focused consistently on increasing efficiency in Federal processes and identifying new areas to improve the performance of the Federal government. American taxpayers expect and deserve nothing less.

One of CEQ's primary focuses has been improving the efficiency and effectiveness of the NEPA process. Over the past few years, CEQ has:

- helped agencies expedite review of priority, job-creating infrastructure projects;
- established interagency Rapid Response Teams to expedite review of priority Renewable Energy, Transmission, and Transportation projects;
- launched a NEPA Pilot Program to solicit and demonstrate ideas from Federal agencies and the public about innovative time- and cost-saving approaches to NEPA implementation;
- and issued new guidance for agencies on improving the efficiency of the NEPA process overall.

The Importance of the National Environmental Policy Act

Today, we take for granted that the public has a right to participate in Federal decisions regarding the environment, energy and natural resources, but in fact it was in NEPA that Congress and the President clearly established this right. It wasn't that long ago that the public had little voice in the Federal decisionmaking process regarding all aspects of the human environment, which includes the social and economic aspects of Federal decisions, for projects that affected them. As a result, highways cut communities in half, dams displaced Tribes, and water projects harmed important ecosystems. Prior to the passage of NEPA, there were limited opportunities for preventing the Federal Government from ignoring the environmental concerns of affected communities. It is important to remember that the House of Representatives adopted NEPA by a vote of 372 to 15 and that the Senate passed NEPA by voice vote without any recorded dissent.

NEPA democratized the Federal decisionmaking process by formally including environmental considerations and public input into Federal decisions. Today, it is NEPA that ensures the ability of the public, communities, State and local governments and industry to have a seat at the table when Federal agencies make decisions that potentially impact our communities and the environment.

As eight of my predecessors at CEQ from both Republican and Democratic administrations noted to Congress a few years ago,

“Consideration of the impacts of proposed government actions on the quality of the human environment is essential to responsible government decision-making. Government projects and programs have effects on the environment with important consequences for every American, and those impacts should be carefully weighed by public officials before taking action. Environmental impact analysis is thus not an impediment to responsible government action; it is a prerequisite for it.”

At its heart, NEPA recognizes that citizens and communities, local and State governments, Indian tribes, and businesses all have a vital interest in government actions—and more often than not, their unique knowledge of risks, consequences, and possible alternatives can produce better decisions. Better decisions reduce the risk of litigation and project delays.

A few facts about NEPA:

- More than 90% of all Federal actions are quickly handled through categorical exclusions, the least intensive form of NEPA review.
 - Using Highways as an example, the non-partisan Congressional Research Service found, “The overwhelming majority of highway projects are deemed to have no significant impact on the environment and require no or limited environmental review or documentation under NEPA.”
- Only a small fraction of projects or decisions require a full Environmental Impact Statement (EIS). In the case of the 275,000 projects funded under the Recovery Act, only four-tenths of a percent required a full EIS. Ninety-six percent of projects used categorical exclusions.

- Each year, Federal agencies conduct hundreds of EISs, tens of thousands of EA's and hundreds of thousands of CEs. The amount of litigation on these NEPA analyses is relatively small. Between 2001 and 2009, fewer than 175 NEPA cases were filed each year – with fewer than 100 cases filed during several of those years.

Frequently, delays in project implementation are inaccurately attributed to NEPA process delays when other factors are relevant. Challenges securing project funding, local opposition to a project, project complexity, or changes in project scope often are responsible for delays. It's also important to bear in mind that State and local jurisdictions have their own processes, which can and do delay projects, in some cases at the request of State and local officials.

Federal Permitting and Infrastructure Projects

With some basic facts out of the way, I'd like to speak briefly about our efforts to cut red-tape for infrastructure projects. Major infrastructure projects typically require multiple permits and reviews from multiple agencies across multiple jurisdictions, at times leading to confusion, duplication, and delay. CEQ is working closely with OMB and Federal agencies to address these concerns with the goal of saving time by enhancing efficiencies in the review processes of major infrastructure projects. We've worked hard to maintain the fundamental precept of NEPA, which is ensuring the ability of the public, communities, State, local and tribal governments, environmental organizations and industry to have a seat at the table when agencies are making decisions, while at the same time identifying steps to cut time and save money. Moreover, NEPA ensures that Federal agencies consider environmental consequences of proposed major actions; we take this obligation very seriously as we seek to build critical infrastructure that creates jobs and ensures America's competitiveness in the future.

We believe our work on modernizing infrastructure permitting can serve as a model for maintaining the integrity of NEPA while finding efficiencies across the Federal government to enhance our review and permitting processes for major infrastructure projects and improving outcomes for the environment and communities.

For example, as part of the Administration's infrastructure permitting work, the Army Corps is projected to shave years off the planning schedule for the Central Everglades Planning Project and is on schedule to meet its goals. This effort will examine opportunities to restore the original river of grass in the Florida Everglades by increasing flows of fresh, clean water to portions of the Everglades. This overall Everglades restoration project, one of the largest and most complex ecosystem restoration projects in the world, requires extensive inter-agency, inter-governmental, and public coordination to reduce delays and deliver the project faster.

Another example is the Los Angeles County Metropolitan Transportation Authority's \$1.7 billion Crenshaw/LAX Transit Corridor project. This was one of the Federal Transit Administration's first projects piloting a new streamlined risk assessment process that helped identify and mitigate project risks more efficiently. Through the project review process, LA Metro determined that a five-mile stretch of the project could follow an unused existing freight rail line corridor. The freight railroad executed an agreement and obtained a regulatory

exemption to abandon the line and allow LA Metro to use it. That decision decreased project costs and reduced construction disturbance for the nearby community.

We've already learned from this infrastructure permitting work that:

- Bringing agencies, project applicants and stakeholders to the table at the beginning of the process saves time and money.
- Establishing mutually agreed-to project milestones and target schedules – not arbitrary deadlines – for complex or significant projects saves time and money.
- Concurrent, coordinated, and collaborative reviews – rather than isolated and sequential – across Federal agencies and with States, Indian tribes and local government saves time and money.
- Using information technology tools, like dashboards that make timelines and milestones public on the Internet, along with key project information and status, increases transparency and helps to save time and money.

In March of 2012, the President issued an Executive Order¹ directing Federal agencies to expedite permitting and review decisions for key infrastructure projects of national or regional significance. We can now show that these efforts have helped to improve permitting timelines from 2-3 months for smaller, less complex projects and several years for larger, more complex projects, while at the same time improving environmental and community outcomes. We are also setting new goals to build on this progress. Following this year's State of the Union, the President announced a goal of time savings of 50% in the Federal permitting and review process for major infrastructure projects by institutionalizing best practices and increasing collaboration with local stakeholders. We are collaborating with Federal agencies and working hard to meet this goal to adequately address our infrastructure needs, ensure sound decisions, and navigate the difficult fiscal climate.

These efforts I've described represent just a few of the many steps we have taken to transform the way we do business by promoting efficiency and speed in the delivery of projects that create jobs, engage the public in decisions, and protect the health of American communities.

National Ocean Policy

Another part of the Administration's efforts to improve decisions, cut red-tape, and increase efficiency is the National Ocean Policy.

As many of you know, CEQ co-chairs the National Ocean Council (NOC) with the Office of Science and Technology Policy (OSTP), led by my friend and colleague Dr. John P. Holdren, the Director of OSTP. The NOC oversees the National Ocean Policy, which the President established in response to more than a decade of discussions, extensive public input, and calls for action from two bi-partisan Commissions.

¹Executive Order 13604 of March 22, 2012, entitled 'Improving Performance of Federal Permitting and Review of Infrastructure Projects. <http://www.whitehouse.gov/the-press-office/2012/03/22/executive-order-improving-performance-federal-permitting-and-review-infr>.

As I have stated before this Committee, the National Ocean Policy provides a framework for the 27 Federal agencies, departments and offices involved in some form or fashion in the use of our oceans to better work together and avoid conflicts that often delay or derail projects that support the economy and coastal communities. At its heart, this policy is a common-sense, good government approach. It helps spur economic growth, aid in the national defense, empower States and communities, and save taxpayer dollars by cutting red tape. It accomplishes this through better coordination to avoid conflicts and delays.

With shrinking agency resources, the Policy is going to be an important tool for those agencies to do more with less. The Policy directs agencies to use resources more efficiently by identifying shared priorities, working through potential conflicts, sharing data, coordinating decision-making, and eliminating duplication.

The Policy embodies the type of efficient, collaborative government that taxpayers, communities, and businesses expect from their Federal government.

Earlier this week, we released the Final Implementation Plan. It incorporates input we received on the draft plan and includes a number of clarifications to address concerns raised by public commenters and some Members of this Committee.

A few key points about the Final Implementation Plan:

- It makes clear that marine planning efforts are voluntary. Regional planning bodies will only be established in regions that want them. If a region doesn't want to move forward on a marine plan, it doesn't have to.
- It emphasizes flexibility and focuses on regional self-determination. Agencies will align themselves around the needs and priorities of regions and States, not the other way around. The National Ocean Policy process is about bridging the gaps between Federal agencies and requiring them to come to the table to serve local interests.
- And it will help to cut down on red tape to spur economic growth. A good example is the work Federal agencies will undertake this year to identify and implement ways to streamline aquaculture permitting.

I think it's important to remember this is a national ocean policy, not a Federal ocean policy. It's about getting agencies out of their silos, to work collaboratively to meet the needs, priorities, and aspirations of regions and communities. It is not an attempt to zone the oceans or regulate inland activities.

In closing, Mr. Chairman, Ranking Member Sablan, as you know, the Administration has requested 3 million dollars for CEQ for fiscal year 2014, a reduction of about 4 percent from FY 2012.

I am proud of what we have accomplished over the past four years, and I am looking forward to continuing our progress this year. I appreciate the opportunity to appear before you this morning and look forward to answering your questions.