

April 7, 2010

Nancy Suttley, Chair
Council on Environmental Quality
Executive Office of the President
Washington, D.C. 20503

Comments re: Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions

Dear Ms. Sutley:

The Wyoming Outdoor Council would like to offer the following comments on the above referenced guidance that the Council on Environmental Quality (CEQ) is proposing to issue. The Wyoming Outdoor Council is Wyoming's oldest and largest independent statewide environmental organization, having advocated for protection of Wyoming's public lands, air, water, and wildlife since 1967.

We are concerned that the CEQ "does not propose to make this guidance applicable to Federal land and resource management actions" We believe the CEQ should reconsider this proposed direction and make its guidance applicable to federal (primarily Forest Service and Bureau of Land Management (BLM)) land use planning efforts. BLM Resource Management Plans (RMP) and Forest Service land and resource management plans should be included under this guidance.

Secretary of the Interior Salazar has issued Secretarial Order No. 3289 (September 14, 2009) which among other things directs that, "Each bureau and office of the Department must consider and analyze potential climate change impacts when undertaking long-range planning exercises, setting priorities for scientific research and investigations, developing multi-year management plans, and making decisions regarding potential use of resources under the Department's purview." Given that the Department of the Interior is analyzing climate change issues when it develops RMPs, it does not seem appropriate for the CEQ to exempt these Federal land and resource management actions from its guidance.

Furthermore, the EPA has put in place a mandatory greenhouse gas reporting rule, and has just announced that these reporting requirements will be expanded to the oil and gas sector. 74 Fed. Reg. 16,448 (Apr. 10, 2010). This means that there will be an increasingly well-developed data base on which to make projections of climate change impacts resulting from federal land use plan implementation. Moreover, a standard part of all BLM RMPs is the projection of a "reasonably foreseeable development scenario" (RFD) for oil and gas well development. BLM routinely projects how many new oil and gas wells will be drilled pursuant to the guidance and requirements under its RMPs. Thus, useful and valid projections of climate change issues and impacts can be made when federal land use plans are developed. And in total, the number of oil and gas wells drilled pursuant to a federal land use plan might well often exceed the 25,000 metric tons trigger mentioned in the draft CEQ guidance. In Wyoming at

least, every BLM RMP projects that literally thousands of oil and gas wells will be drilled. The 25,000 metric tons trigger will likely often be exceeded.

The presentation of an RFD in an RMP and/or its underlying EIS creates a “protocol” by which atmospheric carbon releases can be assessed, an issue of specific concern in the CEQ’s draft guidance. The significance of this opportunity is emphasized by the fact that oil and natural gas operations are the largest source of methane emissions and account for 24 percent of total methane emissions in the United States, and methane has 72 times the greenhouse gas “strength” of carbon dioxide over a 20-year time period.

Another related issue that could have application at the planning level and certainly at the project level is the issue of “aggregation.” Treating large numbers of diffuse oil and gas wells as a single source—aggregating them—has been an issue for several years. On September 22, 2009 EPA Assistant Administrator Gina McCarthy issued a memorandum entitled “Withdrawal of Source Determinations for Oil and Gas Industries” wherein the EPA withdrew previous guidance on aggregation and put in place new direction. Under this direction there may well be more aggregation of oil and gas emissions sources, meaning many more of them will trip the 25,000 metric tons trigger. Aggregation could certainly make it feasible and prudent to analyze climate change issues at the project level for federal land and resource management actions. The draft CEQ guidance recognizes that, “An agency may decide that it would be useful to describe GHG emissions in the aggregate, as part of a programmatic analysis of agency activities that be incorporated by reference into subsequent NEPA analyses for individual agency actions.”

Finally, the judicial system has been considering an increasing number of cases regarding when climate changes issues must be analyzed pursuant to NEPA. For example in *Montana Environmental Information Center v. Bureau of Land Management* (Case No. 08-178-M-DWM, District of Montana, March 18, 2010) the parties reached a settlement wherein BLM agreed to suspend a number of previously issued oil and gas leases while climate change issues are considered. Given the trend of increasing insistence on consideration of climate changes issues in NEPA analyses by the courts, it does not seem prudent for the CEQ to absolve federal land use planning from its climate change NEPA guidance.

Decisions in federal land use plans as well as in project level decisions implicate energy conservation, reduction of energy use, the elimination of greenhouse gases, and promotion of the use of renewable energy. These are all factors the CEQ’s draft guidance recognizes create a situation where, “information on GHG emissions (qualitative or quantitative) that is useful and relevant to the decision should be used when deciding among alternatives.” A BLM RMP routinely considers issues related to energy conservation, how to reduce energy use, and the promotion of renewable energy—in fact wind energy considerations are becoming a dominant theme in BLM RMPs, at least in Wyoming, as is carbon sequestration. Consequently, it would seem that these issues create a need for the consideration of greenhouse gas emissions so as to decide among alternatives in the EIS that underlies an RMP.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Pendery". The signature is fluid and cursive, with a large initial "B" and a distinct "P".

Bruce Pendery
Program Director