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Congress of the United States  
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Washington, DC 20515-4401

COMMITTEE ON  
ARMED SERVICES  
COMMITTEE ON  
EDUCATION AND LABOR  
COMMITTEE ON  
NATURAL RESOURCES

CHAIRMAN, CONGRESSIONAL  
WESTERN CAUCUS

May 19, 2010

Ms. Nancy Sutley  
Chairwoman  
The Council on Environmental Quality  
Executive Office of the President  
722 Jackson Place, NW  
Washington D.C. 20503

Dear Chairwoman Sutley:

We write to express our concern with the proposed guidance recently released by the Council on Environmental Quality (CEQ) advising federal agencies to consider and evaluate climate change and greenhouse gas emissions during the National Environmental Policy Act (NEPA) process.

As you know, NEPA has been and continues to be a law of process – a law to guide federal agencies in their decision making process. This view was confirmed by the United States Supreme Court in 1989 in *Robertson v. Methow Valley Citizens*. In *Methow*, the Court held that “it is well settled that NEPA itself does not impose substantive duties mandating particular results, but simply prescribes the necessary process for preventing uninformed -- rather than unwise -- agency action.” (See 490 U.S. 332 at 333). Yet, despite its legislative history and judicial precedent, NEPA has been increasingly abused forcing federal agencies to spend time and resources, resources that are already lacking, defending lawsuits.

The NEPA guidance issued by CEQ will only exacerbate this situation, as agencies are ill-equipped to address these issues. The scandal uncovered last December and the subsequent investigations relating to climate change reveal that the real data on climate change is questionable. Moreover, the elements that contribute to greenhouse gas emissions are so integrated into our markets that consideration of all of them as part of the NEPA review could have devastating consequences for every aspect of our economy. The result will, no doubt, be longer permitting lines, higher project costs, and more litigation. At a time when jobs are scarce and the economy vulnerable, we should be deconstructing economic barriers – not creating new ones.

We urge you to reconsider this guidance and work with us in making necessary reforms to NEPA. Reforms such as eliminating delays in the permitting process; allowing for greater public participation and stronger involvement by stakeholders; eliminating excessive litigation; and facilitating better federal coordination will go a long way to reestablishing the appropriate balance between economic development and environmental preservation.

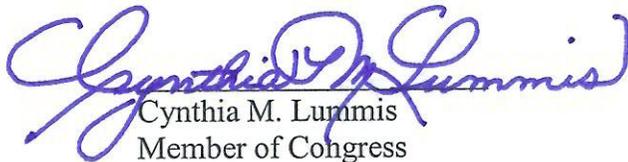
Sincerely,



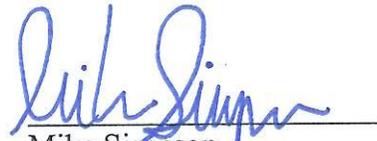
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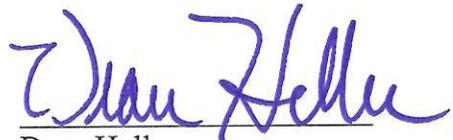
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