



STATE OF WYOMING
OFFICE OF THE GOVERNOR

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STATE CAPITOL
CHEYENNE, WY 82002

November 1, 2001

James L. Connaughton, Chairman
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, D.C. 20503

Re: Council on Environmental Quality Notice and Request for Comments, Energy
Task Force, 66 FR 161
State Identifier, 2001-127

Dear Jim:

As I mentioned at the Western Governors' Association meeting in Couer d'Alene, Idaho and during our phone conversation on October 9th, your outreach effort to states in assisting the federal energy task force is most welcome! I support your efforts to bring the National Environmental Policy Act's (NEPA) implementation back to its original goal to allow the best land management decisions. In particular, I support including the states and local governments as cooperating agencies, if not co-lead agencies; bringing the evaluation process back to six months for completion; and, making decisions based on substantive comments, not postcard lobbying,

Your Council on Environmental Quality's (CEQ) notice and call for comments requesting input to help identify and resolve NEPA-related impediments to accelerated completion of energy related projects, increased energy production, enhanced transmission of energy and coordinated permitting in geographic areas where increased permitting activity is expected, is also unprecedented. I welcome the opportunity to comment.

The 2001 session of the Wyoming Legislature created the Wyoming Energy Commission whose mission is to take the separate State laws, regulations and activities that direct the State's energy development and weave them into a cohesive, comprehensive Wyoming energy policy. Many of the factors to be considered in the development of this state policy parallel those specific areas about which you are seeking



comments, input and ideas. The concurrent goals of our Energy Commission and your fine-tuning of the National Energy Plan give us a unique opportunity for collaboration.

My comments to you are in three parts: Energy and the Environment; NEPA Impediments and Recommendations; and, Existing and Impending Wyoming Energy Projects.

Energy and the Environment

The energy future of this nation is dramatically linked to the energy future of western states. More than that, I consider that the environment, the economy and community are a dynamic balance continually in the making.

Public lands are at the forefront in providing the potential to provide much in the form of raw energy or access to produce and deliver that energy. The development of the New Economy in America is heavily inter-dependent upon technology and reliable, high quality electric power. Beyond the new economy, agricultural production and processing, manufacturing, renewable resources, protection of endangered species, recreational opportunities all affect our economy and our society and each of them is affected in part by what happens on our public land resource.

Energy policy has finally become a high priority nationally. Management of and access to our federal public lands are key to developing America's energy self-reliance. Reasonable access to our public lands will, to a large degree, be a product of streamlining and reducing to common sense the current quagmire of regulatory overburden. We can do this without risk to our environment and quality of life.

We need to increase supply and an infrastructure to transport that supply. Part of the answer is that we have energy policy by default, not by design, policy that is confused rather than coherent. Who should be in charge? In reality, no one person or entity is or should be in complete charge of managing the production, distribution or consumption of our nation's energy supply. We are in this together. Partnerships are vital and beneficial.

Federal and state interaction on energy issues must be as full partners progressing toward common goals. If state government has a committed partnership (or interaction) with federal land managers we will produce domestic supplies of energy in an environmentally safe manner. It is as simple as that.

Increased development of energy supplies must cut across all resource and government jurisdictions, public and private, state and federal. Any new policy must recognize the balance needed among the economy, the environment and the community. Again, give the states full partnership and we will produce energy.

Because of the mixed pattern of land ownership in the West, we have shared responsibility and concurrent jurisdictions. Energy self-reliance through public lands will focus on the West, since nearly 75% of all BLM and Forest Service lands in the United States are located in our Western states, particularly those that are rich in environmental

as well as energy values. These lands are managed for the general national public benefit, but the laws, policies and management decisions and judicial direction for public lands most directly impact, both socially and economically, the people who live in the West. Our residents and communities depend upon the total resource for recreation, wildlife habitat, resource use, mineral extraction, water supplies, flood protection, hunting, fishing, aesthetic values, tourism and monuments. When you tinker with federal land issues in the West, you not only affect the economies of all Americans but also the livelihoods of those people and communities living near and relying on our public lands in West. They need to be involved in resource management.

Federal land ownership in the West is neither collected nor contiguous. Much of it is intermingled with state and private ownership. Regardless of specific ownership, public or private, we must recognize that none of our natural resource decisions can be made exclusively and independently of other managers or owners in the vicinity of our public lands. Again, we must interact as partners. States and the federal government have shared, or concurrent jurisdictions over activities on our lands. We are both rooted as constitutional governments, the federal with enumerated powers and the states with reserved and delegated powers such as those over air, water, wildlife. As a result, activities on federal lands require state as well as federal permits and permissions to be successful. Both must respect the rights of private property adjacent to or co-mingled with governmental ownership.

Where federal land ownership dominates, partnerships are a necessity, not just a nicety to occasionally be "doled" out by a patronizing federal government.

Much of that energy is available in and under our federal public lands. For example, there are 478 billion tons of federal coal reserves in undeveloped portions of the Powder River Basin in Wyoming and Montana.¹ There are another 362 billion tons of federal coal reserves on the Colorado Plateau.² Estimated oil in undiscovered conventional fields on federal lands range from 4.4 to 12.8 billion barrels. Similarly, estimates of technically recoverable gas in undiscovered conventional fields on federal lands range from 34.0 trillion cubic feet (TCF) to 96.8 TCF. Estimates of technically recoverable coalbed gas on federal lands range from 13.0 TCF to 19.6 TCF.³

We have the energy, but we have a sharp imbalance between where energy can be produced and where it is needed or consumed. Transmission pipelines and power lines are needed to connect supply with demand. Acquisition of rights-of-way is necessary; streamlining acquisition processes is crucial.

If we cannot transmit energy it has no utility. If it has no utility we have no incentive. If we have no incentive we have a continuing energy policy based on default.

¹ 1999 Resource Assessment of Selection Tertiary Coal Beds and Zones in the Northern Rocky Mountains and Great Plains Region, October 1999.

² Federally Owned Coal and Federal Lands in the Colorado Plateau Region, USGS Fact Sheet FS-145-99, September 1999.

³ 1995 National Oil and Gas Assessment and Onshore Federal Lands, USGS Open File Reprint 95-5-N, January 1998

Over 70% of Wyoming's mineral estate is federally owned. As with many western states, that amount of federal domination could render us a third-world colony rather than the sovereign state that we are. Wyoming ranks first of all states in the production of coal and uranium. Our natural gas exploration and production has increased our known reserves significantly in recent years so that we now rank fourth, but a distant fourth behind Alaska. Our extractable reserves are equivalent to 374 billion barrels of oil. With OPEC currently producing approximately 25 million barrels of oil per day, Wyoming's energy potential could completely replace the entire OPEC production for the next 41 years.

With this world-class base of raw resources at our very feet, how come America is in such a critical situation of short supply? Again, at the risk of redundancy, the answer is simple: access to the resources has become more difficult and the ability to transport the products in any form remains unpredictable and uncertain.

In addition to resolving NEPA impediments, other specific actions that could and should be taken include reallocating federal resources, including personnel, to activities that are focused on the near-term need for more energy. For example, Wyoming's Powder River Basin is the nation's largest deposit of clean-burning coal. Over 90 percent of current coal production is developed under federal leases. More clean-air-compliant coal could be produced by simply increasing the number of LBA's (Leases By Application) from one per year to two per year. The processes do not need to be changed. What's lacking are the people resources needed for processing the applications.

The projected growth in natural gas demand will necessitate a significant increase in pipeline and distribution systems over the next decade, many of which will cross federal lands. Best estimates are that 38,000 miles of new gas pipelines are needed. The federal government will have to facilitate this construction by working with each affected state to coordinate rights-of-way and production.

Natural gas is the fuel of choice for the near term, since well over 90 percent of new electric power generation will be gas fired. However, by concentrating our policy on one fuel source, we will assign our customers and our nation to the artificial market highs and lows of that one fuel. Having diversified generation sources provides customers with choice, with more reliable service, and with better environmental decisions.

We need to pursue solutions that focus on results, that symbolize balance and stewardship, that recognize states as partners and, above all, resist pre-emption of state laws and jurisdictions. Energy is plentiful within the boundaries of public land jurisdictions.

The western electricity crisis has awakened us to how much we don't know about the energy resources of the nation and how little we have explored opportunities to meet the energy needs of a growing economy while protecting our environment. We need to seek out opportunities to promote energy development AND environmental protection.

Alternatives for construction and maintenance of electric transmission grid must be encouraged. Today's problems focus on California, but significant shortages are imminent in the Midwest.

The permitting processes of federal land management agencies and states are generally rusty and may not be capable of the rapid action required to meet the energy demands of the West. Some may call for the heavy hand of federal preemption of existing state and federal agency permitting processes. However, there is little reason for such draconian action, but much need for new approaches to integrate and accelerate existing permitting process. For example, in the West we are unaware of any interstate transmission line that has ever been blocked by lack of a state permit.

We need to revive the permitting process from the past decade of dormancy. This needs to be done in a manner that reduces overall permitting time and improves the quality of project reviews.

- Require federal permitting agencies to offer states and local governments cooperating agency status in NEPA work on energy;
- Encourage the Bureau of Land Management, the Forest Service, the Minerals Management Service and other federal agencies to work with western governors to develop a process that coordinates and synchronizes federal and state reviews of proposed energy projects; and
- Encourage federal agencies, including the Department of Energy, to work with the states to develop the information necessary for the consideration of alternatives to energy projects that are required under NEPA.

The on-going western electricity crisis is also reminding us how critical the hydro-electric system is to meeting the electricity demand. Let's develop opportunities to use the hydro-electric system to generate more electricity AND protect the environment. For example, a re-regulating dam and reservoir downstream from Glen Canyon Dam could enable greater peak electricity production, protect downstream environmental resources from the problems created by rapid fluctuations in flows and mitigate environmental problems for native species. More effective use could be made of federal dams for stored generation capacity to even out the power generated by intermittent wind power generation as the BPA is considering in its recently-announced solicitation of 1,000 megawatts of wind generation. There are opportunities to replace 40-60 year old generators with more efficient generators thereby increasing electricity generation from the same amount of water (e.g., rewinds and replacements at Bonneville Dam, The Dalles Dam, McNary Dam, Chief Joseph Dam) or to build additional power plants at existing dams (e.g., Folsom, Anderson Ranch, Black Canyon, Lewiston, Grand Coolee). We could evaluate opportunities to modify irrigation practices to shift pumping loads off-peak, to use more efficient pumps and to improve the efficiency of water use.

In addition, I believe that Abandoned Mine Land funds must be revisited. In enacting the Surface Mining Control and Reclamation Act of 1977, a bargain was struck between coal producing states and Indian tribes and the federal government under which the states and tribes would receive at least one-half of the abandoned mine land fee

collections from coal mining within their borders. Over the years, this fundamental agreement has been undercut by limits on appropriations of the state/Indian share of AML collections, and diversion of the funds to the U.S. Treasury and the health benefits of retired coal miners. The result is that nearly every coal mining state and Indian tribe is owed significant amounts of money. For example, the latest annual data (12/31/00) from OSM shows: West Virginia is owed \$95 million; Kentucky \$101 million; Pennsylvania, \$47 million; Montana \$36 million, Utah \$11 million; the Council of Energy Resource Tribes, \$35 million and for Wyoming, the largest coal producing state, the most recent estimate is nearly \$300 million.

As part of the bargain struck in 1977, states that completed their cleanup of abandoned mines could use the funds for other public purposes. Wyoming is in this position. (So may be other states and tribes.) At this point, the funds being withheld from Wyoming need to be put to work expanding our capability to develop our energy and related resources and enhance the environment of our beautiful state.

NEPA Impediments and Recommendations

In reference to your call for comments relative to improvements in applications of NEPA by federal agencies specifically as it relates to increasing the production, transmission and conservation of energy, the logical place to start would be a recap of just exactly what is NEPA. The National Environmental Policy Act was enacted in 1969 with the stated purpose of "recognizing the profound impact of man's activity on the interrelations of all components of the natural environment." Further on in the Purpose Clause, the act declares that "it is the policy of the Federal Government, in cooperation with State and local governments and other concerned public and private organizations... to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations."

I would like to emphasize the words "in cooperation with state and local governments and other concerned public and private organizations." In the past few years we have seen an increase in the latter and a marked decrease in the former. In other words, federal agencies seem to have gravitated to the advocacy of special interests rather than the utilization, by cooperation, of expertise of State agencies and local governments.

This shift has diminished the impact and intent of NEPA considerably and predictably has fostered acrimonious debate resulting in litigation. In Wyoming almost any new production development project or development of the means to transport it to consumers involves a federal action subject to the processes of NEPA. The original intent of NEPA was admirable, but the immense body of activities developed in its implementation in particular over the past eight years has elevated the process itself over results and has allowed opportunity for political control rather than public disclosure and real protection. In short, the process has become the goal. To illustrate, the Bureau of Land Management has been developing an Environmental Assessment for an additional 2500 permits for Coal Bed Methane wells in Wyoming's Powder River Basin. If the wells are not developed on the federal lands, production on adjacent state and privately

owned lands will pull the methane gas out of the federal ownership. Following its approved procedures, the BLM had completed its work and had given assurances to leaseholders that the additional permits would be available by March 1, 2001. At the last moment the U. S. Fish and Wildlife Service reported that it had not completed its required assessment of impacts and would delay the issuance of permits. The lack of coordination and cooperation between two divisions within the single Department of Interior will delay access to a much-needed supply of gas in a very attractive market. Federal activity is primarily focused on process rather than results and there is no accountability for improper decisions.

Implementation of this short and relatively simple act, NEPA, has resulted in such a myriad of regulations and processes, that state and local authorities have little or no idea which way the whip saw will go next. Inconsistency between and among federal agencies is rampant.

Former Chair of the Council on Environmental Quality, Kathleen McGinty, said in the CEQ 25th Anniversary Report, "...our common ground - the environment - has become a battleground. Somehow, nearly half of the Environmental Protection Agency's work is not the product of our collective will on the environment, but rather the product of judicial decree. Somehow, we have become a country in receivership, with the courts managing our forests, our rivers and our rangelands."

In fact, it's not just that the courts are directly managing many of our resources, they are indirectly managing nearly all the resources in our states because of the fear of litigation, not just because of actual litigation. NEPA is not the problem. The problem is the cavalier and vacillating implementation of the act in different ways by different agencies. It takes too long, costs too much, spawns unending litigation and is so inconsistently implemented that each agency requires custom tailoring of its approach. You likely would not have to amend NEPA at all if it was simply required of the federal government to be consistent and speak with one voice in implementing NEPA consistent with congressional intent. It's not the Act, it's the actors.

We must change the confusing and contradictory regulations used by federal agencies to implement NEPA. Related federal laws such as the National Forest Management Act, the Federal Land Policy and Management Act, and the Federal Advisory Committee Act must be reviewed to clarify their impact on NEPA implementation and to identify inconsistencies or conflicts that need to be addressed.

The Act is intended to require a comprehensive view of federal, state and private actions that are comprehensive, elicit better planning, are inter-generational in their beneficial effect, and strike a wholesome balance between the environment, the economy and the needs of the people. The needs of the people as a Nation is particularly true as it relates to the development of energy - an issue that affects us all.

The CEQ's Twenty-Five Year Effectiveness Study of NEPA articulates the Act's strength as a tool for better decisions, and the Act's foresight in anticipating today's need for enhanced local involvement and responsibility in environmental decision making. The

Study also recognizes several areas where NEPA implementation needs improvement, areas that CEQ is using to point the way for its NEPA reinvention effort. At that time, CEQ advocated a stronger role for state and local governments. While I strongly supported this renewal of relationships I was extremely disappointed that it never left the shelf and went to the field. It simply didn't happen and in fact over the more recent years objective analysis by cooperation and partnership has given way to decision making by advocacy.

I have several suggestions for improving NEPA implementation but the importance of a stronger role for state and local governments is what I emphasize most.

This approach has certainly been supported at the highest levels of past administrations even though the actions never trickled down to the agencies. In a letter to me dated August 11, 1997, Former CEQ Chair McGinty wrote "Regulations implementing the Act at CFR 1508.5 are clear that a state or local government may, by agreement with the lead agency, become a cooperating agency. Frankly, considering NEPA's mandate and authority granted in federal regulation to allow state and local cooperation through agreement, cooperator status for state and local governments should occur routinely."

Clearly, the shortcomings in the NEPA process are in application, not purpose. Unfortunately, the clear objectives of NEPA and the CEQ are not reflected in federal agency regulations or in practice. Agencies have too much focus on producing litigation-proof documents and too little concern with involving people in the process. To streamline the NEPA process in order to facilitate energy development while protecting our environment, improvement is needed in ten key areas. I have the following recommendations.

1. ***Involve the right people, including local and state governments, from the beginning.*** NEPA is supposed to be a tool for better decisions, yet agencies typically engage in consultation only after a decision has already been made. I routinely receive federal agency officials in my office who come by to "update" me on actions they have already taken or will take. I am weary of being "updated." The States are partners in natural resource management. Rather than being "updated," we should be included in the planning and evaluation process to insure that our people are represented in the spirit in which NEPA was enacted. I know that local governments such as county commissions share the same frustration.

The states were not created by the federal government. Rather, the federal government was created by the states. The states are not employees of the federal government. We have governing responsibilities under law and expertise borne of primacy that can not and should not be set aside. When federal agencies write the regulations to implement a law, they have the power to set aside any state law that conflicts with federal regulation. If state law is to be set aside, do it only through specific federal law that cites individual needs. Federal agencies should not

continue the practice of allowing any federal regulation to cavalierly set aside the peoples' will in the states.

The states have mandates of their own under law. Clearly, we have shared and concurrent jurisdiction with the federal agency managers. For instance, while the U. S. Forest Service and the Bureau of Land Management oversee much of the land management issues in the West, the states have primacy over wildlife management, air quality, water quality, solid waste disposal and water rights management on those very same lands. Our joint, or shared responsibilities require a full partnership, not just a close relationship. I repeat - we want a full partnership, not just a close relationship. A police officer with a prisoner in handcuffs has a close relationship with the prisoner, but I would hardly call it a partnership. Mutual respect and benefit characterize a partnership.

We can help people on the land not only feel good about stewardship but become better stewards in control of their choices, so that they can pass something along to their children that's better than they received. We have to show in plain, simple and expeditious actions that the environment, the economy and the community are compatible and connected.

This means that we have to appreciate the resource while we respect the people, and leave them secure in the belief that they can take control of their destiny to assure the destiny of their children. Our citizens are becoming disenfranchised with NEPA, they are tired of gridlock and feeling left out of the process. They are willing and able to participate. Local involvement, especially early in the process, can greatly reduce conflicts and help frame better and more balanced decisions.

I strongly support and encourage you to not only support but to facilitate changes to federal agency regulations to require early involvement of all parties in the NEPA process.

2. ***Improve coordination among and within agencies where it exists and require it where often times it does not.*** Too often, NEPA's requirements have resulted in the duplication of environmental analyses of projects by multiple federal agencies. Agency accountability for the NEPA process is often times minimal or nonexistent. There is often poor coordination among the project proponent, lead agency, and third party contractors hired to conduct the analysis. When project proponents are paying the contractors, there is no obligation or incentive for the agency to streamline, improve efficiency or reduce cost or seek out partnerships.

3. ***Reduce inconsistencies among and within agencies.*** Federal agencies operate under different mandates and laws and each agency has developed its own unique set of NEPA regulations which adds to the confusion and complexity of the NEPA process. NEPA implementation can even vary within one agency. If the nation is going to operate under the umbrella of a National Energy Plan then agencies must have a consistent application of NEPA. We have one federal government. Federal agencies should speak and act with one voice.
4. ***Improve and increase training of federal agency personnel.*** In particular, training should focus on:
 - recognizing the legitimate role for state and local governments early in the process
 - understanding the difference between EAs and EISs
 - developing consistency in defining and identifying reasonable alternatives
 - writing concise, clear documents in plain language with EAs no more than 15 pages and EISs no more than 150 pages in accordance with existing regulations
 - setting geographic and issue boundaries during scoping to focus discussions and reduce misuse of the process
 - limiting the time to accomplish the EA and FIS documents. NEPA calls for no longer than three months for an EA and no longer than 12 months for an EIS.

Also, federal officials should be able to explain policies and process to state and local officials, as well as to the public.

NEPA must involve the public in decision making. When NEPA documents are extremely technical and long, the chance of involving the public and not surrogates for the public (public interest lawyers), is decreased. New technology can aid in involving the public. These technologies could include geographic information systems and common data baselines so that information and presentation would not have to be reinvented with each successive action. Because of the power inherent in visual images, a major role for determining that the images themselves are unbiased is important.

5. ***Establish a scientific, substantive basis for asking "what if" needs to be established, to reduce endless inquiries and unnecessary data collection.*** In some cases, NEPA has been misused to force lengthy delays after many months have been spent studying, analyzing, planning and developing projects. Agencies are just plain unwilling to dismiss frivolous and often times contrived public comments and to separate ideological commentary from that focused on project specific environmental impacts. Boundaries should be set during scoping to focus discussions and reduce misuse of the process.

6. ***Insist on the use of "adaptive management."*** The National Academy of Sciences states that "...in adaptive management, management and research are combined so that the projects are specifically designed to reveal causal relationships between interventions and outcomes, that is, to maximize learning." In adaptive management, you make decisions earlier, check the outcomes regularly, and adapt if the premise was not exactly as expected. When agencies work to eliminate every possible contingency, or "what if..." they are unmercifully slow in reaching conclusions.

Regulation should be built upon adaptive management and trust. Make a decision, based upon the best information at that time. Don't try to cover every possible contingency. You can always ask one more question that starts off with "What if..." Make the decision. Get under way. Monitor the performance. If there is impact, adapt to correct the problems. Use accurate science, modern technology and train people to be objective. Let me repeat the phrase I quoted earlier from Kathleen McGinty's letter to me: "...cooperator status for state and local governments should occur routinely." The thought is worth repeating since it is central to our concerns about NEPA, and not all federal managers embrace the notion of cooperation.

NEPA requires that the best available information be used in the analysis. Instead, agencies often view NEPA as an opportunity to collect any type of data, without regard for whether the data are necessary for the proposed project. There is a need to establish more uniform data adequacy standards for EIS's.

7. ***Establish a western CEQ presence.*** This could be done by the creation of a western field office which would serve as a clearinghouse for NEPA related issues and be empowered to resolve inter-agency disputes. This would go a long way in ensuring that federal agencies work in a unified manner in implementing the National Energy Policy.
8. ***Revisit the new National Trails System Initiative.*** The National Trails System Initiative was established by Executive Order 13195, signed by President Clinton on January 18, 2001. The EO expands the National Trails System Act of 1968. The Wyoming BLM is charged with developing a management system so the trails will be managed in much the same way as national monuments, using National Park Service protocols. The action appears not to be limited to Congressionally designated national trails but open to all trails or calls for additional trails to be nominated by the public. These actions have the potential to slow or discourage any type of development adjacent to national trails and may infringe upon private property rights - both surface and subsurface.

The Congressionally designated trails within Wyoming's borders are the Oregon, California, Mormon and Pony Express. These trails traverse through the southern half of the state. The BLM is currently studying the trails for scenic acuity for five miles on either side of the centerline of said trails, from a height of five feet for a 360 degree radius every 100 meters along the length of the trails. Additional studies are being done to decide if more trail segments need to be registered as historic. These studies are considering trace of a trail, campsites, graves, fords and crossing, landmark features, inscription sites, pony express and stage stations. This study will also evaluate the landscape types outside the 1/2 mile corridor established in the Trails Act. There are concerns that these new measures being studied will be made part of revised Resource Management Plans for all the affected field offices in Wyoming, thus impeding economic opportunity and energy development. Besides loss of access for development on public lands, other concerns are higher costs for additional NEPA documentation and unnecessary delays as understaffed State Historic Preservation offices are burdened with the task of site-specific surveys. While understanding the historic significance of the trail systems, I request that the CEQ review this emerging issue from two perspectives. The first, of course, is an objective evaluation by CEQ of the current mitigation standard which is 1/4 mile from centerline or visual horizon whichever is less as compared to the new impending guidelines. Secondly, I would request that the CEQ evaluate this new initiative in relation to its compatibility with the National Energy Policy. It appears to me that at the same time that you are calling for input on removing existing NEPA-related impediments to expedite energy development, other agencies of the federal government are in the process of creating new ones.

9. ***Streamline and improve the pipeline permitting process.*** Permitting new pipelines is complicated and cumbersome. I recommend that the CEQ Task Force review the permitting process to eliminate duplication of efforts, and explore forging an agreement between all federal and state agencies who have jurisdiction or regulatory authority to allow for information sharing, thus streamlining and improving the permitting process.

Wyoming is rich in natural gas, oil and coalbed methane. These are minerals in high demand and as our nation continues on the road to self-reliance, we will continue to see growth in this demand. Most new or proposed power plants are scheduled to use natural gas as the primary fuel source. In the year 2000, 23 Trillion Cubic Feet (Tcf) of natural gas was consumed in the United States. The National Petroleum Council's 1999 report shows this demand climbing by 32% over the next 10 years to 30 Tcf by the year 2012. However, the current infrastructure is not adequate to meet the forecasted demands and is exacerbated by the complex permitting process for new pipelines.

10. ***Streamline National Historic Preservation Act Section 106 compliance review.*** The permitting process under Section 106 of the National Historic Preservation Act is a time consuming and complicated process. I offer two courses of action as recommended by my State Historic Preservation Office.

- A. *Encourage Block Surveys.* Although occasionally undertaken, block surveys of large areas of proposed development remain the exception rather than the rule. The advantage of a block survey comes in the ability to produce a plan of development for an area which takes into account the location of significant cultural resources. This knowledge can allow the placement of well pads and associated infrastructure in a manner which minimizes the effects on these resources as well as the associated costs and time involved in additional consultation and mitigation.
- B. *Designate and/or expand utility/pipeline corridors.* Designating and surveying specific utility/pipeline corridors would allow much the same time and economic savings as the aforementioned block surveys. Once surveyed, the cultural resources within the corridor would be known, allowing more efficient planning and cost estimates. If designation of these corridors is not possible, the survey of expanded corridors for individual projects should be encouraged. This, as with a designated corridor, would allow for more flexibility in the placement of specific utilities, possible avoidance of significant cultural resources and the ability to add future parallel utilities without additional survey.
11. *Review agency guidance that goes beyond federal statute, may pre-empt states' primacy on certain jurisdictions and extends statutory protections to areas not in the statutes.* Guidance can impact the NEPA process because federal managers can include it within the scope of the review. One example is the April 1, 2001 Federal Land Managers' Air Quality Related Values Workgroup "FLAG" report. Having the federal agencies speak with one "voice" or position is good; however, that position needs to be representative of the law. This guidance requires new sources to conduct very prescriptive analyses and cumulative modeling beyond what is required by the Clean Air Act. The FLAG extends Class I protections to Class II areas – which exceeds the Clean Air Act. The FLAG report either needs to be withdrawn or corrected.
12. *Combine different federal agencies' EA/EIS processes on the same project into one EA/EIS process.* In Wyoming we have the BLM doing EA's on projects, completing them, then the Forest Service coming in and doing a separate EA on the same project meanwhile keeping the project pending until the EA is complete. The federal agencies should do them as one – it provides a more complete assessment of the project and shortens the timeline.

Impending Wyoming Energy Projects

You have asked for specific information on both existing and pending energy projects. Such a list of projects in Wyoming will be forthcoming. Some of the projects that we will be submitting have yet to be announced, therefore, we will provide you those projects as soon as we can.

Conclusion

The culture and history of the Rocky Mountains reflects a strong spirit of independence and innovation. Imbedded in the success of our past lies a deep seated respect for each other and the spirit of cooperation. In the West, cooperation isn't just a matter of neighborliness, it can often mean survival - supporting each other, respecting the resource, conserving for the next generation, and preventing the irreversible deterioration that comes from lack of stewardship. Federal agencies must be encouraged by the administration to realize that cooperation is not capitulation.

Thomas Jefferson maintained a solid belief that the success of our democracy lies in ordinary citizens vested with deep civic responsibility, citizens who engage each other directly in the pursuit of the common good. The American West can and should reject the last two decades of bitter debate among environmentalists and resource users that has become so polarized that we have gridlock rather than any public benefit from our public lands. Former EPA Director Bill Ruckelshaus has said "business, governments and citizens, frustrated by years of litigation and stalemate, have begun to turn to the common good, sometimes out of desperation, but more frequently out of hope. Hope that the decisions they yield will be less controversial and more durable. Hope that jointly designed decisions will be better and more informed decisions. And hope that stakeholder processes could actually help to regenerate public confidence in our institutions, including both government and business."

The State of Wyoming appreciates the opportunity to comment.

Best regards,


Jim Granger
Governor

JG:ar:jh

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Natural Resources Sub-Cabinet
Alan Weakly, Chair, Wyoming Counties for Responsible Energy Development
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