

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

June 17, 2022

The Honorable Brenda Mallory  
Chair  
The Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, D.C. 20503

Dear Chair Mallory,

On May 20, 2022, the Council on Environmental Quality's (CEQ) first phase of changes to the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq.) became effective.<sup>1</sup> This is the Biden administration's first step, in a two-phase approach, to reverse common-sense NEPA reforms the Trump Administration implemented in 2020.<sup>2</sup> The 2020 NEPA update provided reforms for "more efficient, effective, and timely NEPA reviews."<sup>3</sup> Phase One's reversal of the 2020 NEPA reforms was criticized by various stakeholders concerned about the negative impact the rule will have on their livelihoods.<sup>4</sup> We strongly urge you to reconsider your position on these Phase One regulations, rescind the Phase One rulemaking, and refrain from imposing additional bureaucratic hurdles through the creation of the planned Phase Two regulations.

In the rollout of the Phase One regulations, CEQ assured the public that the rule "will not add time to the NEPA process."<sup>5</sup> In reality, the Phase One regulations return NEPA timelines to the pre-2020 standards when an Environmental Impact Statement (EIS) took on average 4.5 years to complete.<sup>6</sup> Therefore, it can only be expected that NEPA reviews will continue to be lengthy processes, creating voluminous records. By reversing the Trump administration's NEPA

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<sup>1</sup> Alex Guillén, *Biden Administration Reverses Trump-era Rule Limiting Scrutiny of Environmental Impacts*, POLITICO, Apr. 19, 2022, <https://www.politico.com/news/2022/04/19/biden-reverses-trump-rule-limiting-scrutiny-environmental-impacts-00026207>.

<sup>2</sup> See Press Release, THE WHITE HOUSE, *CEQ Restores Three Key Community Safeguards During Federal Environmental Reviews*, (Apr. 19, 2022), <https://www.whitehouse.gov/ceq/news-updates/2022/04/19/ceq-restores-three-key-community-safeguards-during-federal-environmental-reviews/>.

<sup>3</sup> 85 Fed. Reg. 43,304 (July 16, 2020).

<sup>4</sup> See e.g. Press Release, ASSOCIATED BUILDERS AND CONTRACTORS, *NEPA Rule Will Cause Needless Delays for Small Businesses and Increase Costs for Taxpayers, Says ABC*, (Apr. 19, 2022), <https://www.abc.org/News-Media/News-Releases/entryid/19377/nepa-rule-will-cause-needless-delays-for-small-businesses-and-increase-costs-for-taxpayers-says-abc>; Press Release, PUBLIC LANDS COUNCIL & THE NAT'L CATTLEMAN'S BEEF ASSOC'N, *Biden NEPA Framework Compromises Environmental, Economic Goals*, (Apr. 19, 2022), <https://publiclandscouncil.org/2022/04/19/biden-nepa-framework-compromises-environmental-economic-goals/>.

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *Environmental Impact Statement Timelines (2010-2018)*, EXEC. OFF. OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY (June 12, 2020), [https://ceq.doe.gov/docs/nepa-practice/CEQ\\_EIS\\_Timeline\\_Report\\_2020-6-12.pdf](https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf).

updates, CEQ is reimposing a regulatory regime known to create unacceptable delays for crucial projects. For example, these extended reviews will make it more difficult and costly to implement critical forest management projects that address the growing threat of wildfire. Implementing the Phase One regulations calls into question whether the U.S. Forest Service will be able to successfully implement its recently announced 10-year strategy to address the wildfire crisis.<sup>7</sup> Returning to pre-2020 standards simply fail to address long-standing concerns related to drawn out and burdensome NEPA review processes.

The Phase One regulations prompt questions about the Biden administration's intentions towards domestic energy development and resource production. In a December 10, 2021, letter, Committee on Natural Resources Republicans raised significant concerns about the negative impact of undoing the 2020 NEPA reforms.<sup>8</sup> CEQ's Phase One regulations are anticipated to hamper domestic energy projects, including both fossil fuel and renewable energy projects.<sup>9</sup> Last month, the Biden administration announced that it would finally comply with a court order requiring oil and gas sales on public lands.<sup>10</sup> Unfortunately, the announced lease sale cut the acres offered for lease by 80 percent and significantly increased royalty rates from 12.5 to 18.75 percent.<sup>11</sup> This lackluster announcement was followed by the implementation of the Phase One NEPA regulations and the cancelation of remaining offshore lease sales.<sup>12</sup> Ultimately, these changes will make it more difficult to build the infrastructure needed to increase domestic energy production – including renewable infrastructure.<sup>13</sup> As American families face rising gas prices and global insecurity threatens energy supply chains, the Biden administration continues to place obstacles in the way of American energy independence.

As CEQ considers Phase Two of its NEPA reforms, significant concerns arise about the impact more burdensome NEPA requirements will have on crucial infrastructure projects. Environmental groups are calling on CEQ to implement “aggressive” changes in Phase Two,<sup>14</sup> leading to more layers of bureaucratic red tape in an already prolonged project approval process. CEQ's continued efforts to dismantle the advances of the 2020 NEPA reforms eliminates the

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<sup>7</sup> U.S. FOREST SERVICE, *Confronting the Wildfire Crisis*, (last visited May 4, 2022), <https://www.fs.usda.gov/managing-land/wildfire-crisis>.

<sup>8</sup> Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., et al., to the Hon. Brenda Mallory, Chair, Council on Environmental Quality, (Dec. 10, 2021) (on file with Comm.).

<sup>9</sup> *Id.*

<sup>10</sup> See *How to Kill American Infrastructure on the Sly*, THE WALL ST. J., Apr. 20, 2022, [https://www.wsj.com/articles/how-to-kill-infrastructure-on-the-sly-white-house-biden-council-on-environmental-policy-nepa-11650481710?mod=opinion\\_lead\\_pos3](https://www.wsj.com/articles/how-to-kill-infrastructure-on-the-sly-white-house-biden-council-on-environmental-policy-nepa-11650481710?mod=opinion_lead_pos3).

<sup>11</sup> See Samuel Chamberlain, *White House Restarting Federal Oil, Gas Lease Sales Next Week*, N.Y. POST, Apr. 15, 2022, <https://nypost.com/2022/04/15/white-house-restarting-federal-oil-gas-lease-sales-next-week/>.

<sup>12</sup> *Supra* note 10.

<sup>13</sup> *Id.*; Press Release, AMERICAN PETROLEUM INSTITUTE, *API: Administration's NEPA Rewrite Undermines Global Energy Security*, (Apr. 19, 2022), <https://www.api.org/news-policy-and-issues/news/2022/04/19/api-administration-nepa-rewrite-undermines-energy-security>; Ezra Klein, *Government is Flailing, In Part Because Liberals Hobbled It*, NEW YORK TIMES, March 13, 2022, <https://www.nytimes.com/2022/03/13/opinion/berkeley-enrollment-climate-crisis.html?searchResultPosition=4>

<sup>14</sup> *Supra* note 1.

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progress made in streamlining the permitting process.<sup>15</sup> Therefore, we urge CEQ to reverse course, leaving the 2020 NEPA reforms intact.

Sincerely,



Bruce Westerman  
Ranking Member  
Committee on Natural Resources



Blake Moore  
Ranking Member  
Subcommittee on Oversight &  
Investigations



Russ Fulcher  
Ranking Member  
Subcommittee on National Parks, Forests,  
and Public Lands



Pete Stauber  
Ranking Member  
Subcommittee on Energy and Mineral  
Resources



Jay Obernolte  
Ranking Member  
Subcommittee for Indigenous Peoples of the  
United States



Louie Gohmert  
Member of Congress



Doug Lamborn  
Member of Congress



Tom McClintock  
Member of Congress

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<sup>15</sup> See Press Release, U.S. CHAMBER OF COMMERCE, *U.S. Chamber: Biden Administration NEPA Rules Will Make It Harder to Lower Gas Prices, Invest in Clean Energy, and Build Modern Infrastructure*, (Apr. 19, 2022), <https://www.uschamber.com/infrastructure/u-s-chamber-biden-administration-nepa-rules-will-make-it-harder-to-lower-gas-prices-invest-in-clean-energy-and-build-modern-infrastructure>.

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A handwritten signature in blue ink that reads "Paul A. Gosar" with a stylized flourish at the end.

Paul A. Gosar, D.D.S.  
Member of Congress

A handwritten signature in blue ink that reads "Garret Graves" with a long horizontal stroke at the end.

Garret Graves  
Member of Congress

A handwritten signature in blue ink that reads "Jerry Carl" with a large circular flourish at the beginning.

Jerry Carl  
Member of Congress