



February 7, 2011

The Honorable Nancy Sutley  
Council on Environmental Quality  
Executive Office of the President  
730 Jackson Place, NW  
Washington, DC 20503

Re: Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies - Proposed National Objectives, Principles and Standards for Water and Related Resources Implementation Studies

Dear Chairwoman Sutley:

We appreciate the challenges you face in formulating revisions to the Principles and Guidelines for Water and Related Land Resources Planning (the P&G). We write to you to communicate concerns and recommendations that we hope you will adopt as you work toward completion of this important effort.

In his State of the Union Address, President Obama sounded the compelling theme of winning our future. He drew the strong and clear linkages of our future well-being to infrastructure and the competitiveness of our great workforce in the global economy and the strategic role of exports in revitalizing our historic pathways of upward economic mobility. Just days after delivering his State of the Union message, the President signed Executive Order 13563, Improving Regulation and Regulatory Review. The order emphasizes the parity of our national objectives for public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. This policy statement is as directly applicable to investment in and management of water resources as it to regulation.

In the President's State of the Union address and the executive order, the Administration has laid a firm foundation that should guide the completion of CEQ's Proposed National Objectives, Principles and Standards for Water and Related Resources Implementation Studies (Proposal). Water resources development is a critical component of achieving the President's vision. Recognizing the critical role of our water resources infrastructure to a robust economy, job creation and environmental well-being, it is imperative that the Proposal establish a clear, concise, and workable framework to guide the development of these critical projects. As pointed out by the National Research Council (NRC) in its report on the Proposal and in numerous public comments, the Proposal fundamentally fails to achieve this critical end.

We therefore urge you to act on recommendations contained in the NRC report

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and reissue a new draft proposal for public review and comment, including additional review by the NRC. This new draft must ensure that any resulting planning document sets forth a path to balanced solutions, clear and consistent guidance to planners, and replicable results that are understandable to all stakeholders. Failure to establish a long-term, viable planning model will have a devastating effect on our nation's economic stability at a time when we can ill-afford it.

Given the serious concerns raised in the NRC report, several fundamental flaws must be addressed. At the outset, as NRC points out, CEQ's Proposal is only a partial revision to the planning documents – lacking any detail on implementing “Guidelines” and planning procedures. Given this, we further urge CEQ to cease the efforts presently underway to revise the “Guidelines” applicable to planning studies. Such efforts are entirely premature given the substantial revisions to the draft Proposal that are warranted. It is simply not feasible to continue on the path forward preparing the implementation phase of the planning documents until the fundamental Principles have been established.

The NRC report further finds that:

“The proposed revisions contain both general planning principles, and steps and concepts that could be part of a planning process. The planning principles are highly abstract and not fully consistent, while the planning steps collectively are confusing and lack sufficient coherence for practical implementation. As such, the proposed revisions have only limited value as policy guidance and are inadequate as an operational, or ‘decision’ document.”

The flaws articulated by the NRC report undermine the integrity of the entire Proposal; these criticisms are not merely superficial. Rather, as the report points out, the Proposal fails to clearly state its intended applicability, creating uncertainty as to whether it is intended as general policy guidance, a decision document that specifies planning steps, or both. We urge you to consider the alternative set forth in the report of making the Principles and Standards a broad policy statement and then request each relevant water agency to report on how it will help implement national water principles and priorities. Similarly, providing that each agency review its implementing guidance and address terminological issues will address many of the concerns about vague, conflicting and inconsistent terminology and concepts throughout the document as described in the report.

The report notes that many national water management issues lie outside the missions of the agencies to which the Proposal would apply. Such inconsistent application would create significant uncertainty at a time when water resources planners, including those at all levels - Federal, state and local - are working to develop a collaborative, integrated approach to water management. Local communities and non-Federal sponsors who bear a significant share of the cost of projects will be faced with the prospect of substantially higher costs as a result of a confusing and unpredictable process. Many would be forced to forego participation in projects, resulting in job losses and local economic harm. At a time when we ought to be encouraging Federal, state and local cooperation in water resources, the Proposal ignores state and local participation and, instead, inappropriately adopts a Federal-centric approach.

As we have previously articulated to CEQ in our comments, a clear, concise and workable set of Principles applicable to the planning and development of water resources projects which appropriately reflect the national interest in water resources must:

- Utilize cost-benefit analysis and other such recognized and proven analytical tools as a basis to compare options,
- Provide for the unbiased consideration of all alternatives, and not exclude or penalize classes of alternatives from consideration and recommendation,
- Require that decisions are made based on an assessment of net beneficial effects, and
- Establish a peer review process that is appropriate to the potential impacts of the project and seamlessly integrated into the planning process.

With respect to cost-benefit analysis, the NRC report finds that CEQ's Proposal is "inconsistent with generally accepted application of benefit-cost analysis in at least two important ways." In addition to the obvious – and serious - deficiency this finding reveals, it also indicates that the Proposal runs directly counter to the new executive order requiring that Federal regulations maximize net benefits and not be unduly burdensome.

Finally, it is our view that the Proposal, as drafted, fundamentally fails to respond to the requirements of Section 2031 of WRDA 2007. This finding alone argues for a restart of the revision effort from the beginning. We encourage you to revisit the requirements of this provision as you begin again to revise the P&G.

We believe our recommendations will provide a direct, effective and expeditious way to contribute to the President's goal of winning the future and the Administration's principles for integrating complex national objectives into sound decisions and recommendations. We look forward to working with you in the next round of review and comments.

Respectfully submitted,

*Amy W. Larson*

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cc: Cass R. Sunstein  
Administrator, Office of Information and Regulatory Affairs  
Office of Management and Budget