Kelliher, Joseph

From: Anderson, Margot
Sent: Wednesday, February 21, 2001 12:39 PM
To: Kelliher, Joseph
Subject: RE: 97%

This appears to be the most recent data - a little more complicated than our text implies. From the CDC:

---Original Message-----
From: Kelliher, Joseph
Sent: Wednesday, February 21, 2001 12:32 PM
To: Anderson, Margot
Subject: RE: 97%

---Original Message-----
From: Anderson, Margot
Sent: Wednesday, February 21, 2001 12:18 PM
To: Kelliher, Joseph
Subject: RE: 97%

---Original Message-----
From: Kelliher, Joseph
Sent: Wednesday, February 21, 2001 12:16 PM
To: Anderson, Margot
Subject: RE: 97%

I will send it on. I have made some minor edits. Fact check: did "hundreds" of elderly die in Chicago that summer? I have a hard time believing that.

---Original Message-----
From: Anderson, Margot
Sent: Wednesday, February 21, 2001 12:13 PM
To: Kelliher, Joseph
Subject: RE: 97%
-----Original Message-----
From: Keliher, Joseph
Sent: Wednesday, February 21, 2001 11:57 AM
To: Anderson, Margot
Subject: RE: 97%

-----Original Message-----
From: Anderson, Margot
Sent: Wednesday, February 21, 2001 11:23 AM
To: Keliher, Joseph
Subject: 97%

Sorry, I got called away to meeting with the chief of staff (on energy emergencies at DOE).

Margot
Kelliher, Joseph

From: Anderson, Margot
Sent: Tuesday, February 20, 2001 7:18 PM
To: Kelliher, Joseph
Subject: toycoing base

Joe.

Margot

Original Message

From: Kelliher, Joseph
Sent: Tuesday, February 20, 2001 5:59 PM
To: Anderson, Margot
Subject: RE: almost

Joe,

I want to read for typos (working too fast) but here is the section and the regional stuff. Will take about an hour.

Margot << File: section 3 jerk.doc >> << File: regional effects next 6 months. doc.doc >>
Secretory, The

From:  
Sent:  
To:  Secretary, The  
Subject: Re: Alaskan Wildlife Refuge  

Don't open up the protected lands.  

See attached letter.
President Bush's Energy Task Force,

As a citizen of the United States, I fervently believe that the policy to open up the Alaskan Wildlife Refuge is a crime beyond belief. How dare our so-called President break into his term by pushing a lightly veiled policy to benefit his oil cronies and not the American people or its land. The California energy crisis has nothing to do with needing to drill more oil. I warn you of this. If this policy goes through, you will all go down in history as the administration that destroyed the environment. Push through the Kyoto Protocol without greenhouse sinks in other countries and DO NOT open the protected lands to industry. Take the higher road, we are at a critical moment in world history where everything could change. We are watching you all very closely. I thank you for your time, and I hope we see a common goal.

Cc:
President Bush
Christie Whitman
Spencer Abraham
Ann Veneman
Paul O'Neill
Donald Evans
Norman Mineta
Gale Norton
President Bush’s Energy Task Force,

As a citizen of the United States, I fervently believe that the policy to open up the Alaskan Wildlife Refuge is a crime beyond belief. How dare our so-called President break into his term by pushing a lightly veiled policy to benefit his oil cronies and not the American people or its land. The California energy crisis has nothing to do with needing to drill more oil. I warn you of this. If this policy goes through, you will all go down in history as the administration that destroyed the environment. Push through the Kyoto Protocol without greenhouse sinks in other countries and DO NOT open the protected lands to industry. Take the higher road, we are at a critical moment in world history where everything could change. We are watching you all very closely. I thank you for your time, and I hope we see a common goal.

Cc:
President Bush
Christie Whitman
Spencer Abraham
Ann Veneman
Paul O’Neill
Donald Evans
Norman Mineta
Gale Norton
Renewable and Appropriate Energy Lab  
University of California  
4152 Etcheverry Hall  
Berkeley, CA 94720  
Phone/Fax: (510) 643-2243  

<table>
<thead>
<tr>
<th>To: Secretary Abraham</th>
<th>Fax: 202-586-4403</th>
</tr>
</thead>
<tbody>
<tr>
<td>From: Kammen et al., RAIL</td>
<td>Date: 2/16/01</td>
</tr>
<tr>
<td>Re: National Clean Energy Strategy</td>
<td>Pages: 10</td>
</tr>
<tr>
<td>CC: List</td>
<td></td>
</tr>
</tbody>
</table>

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Spencer Abraham  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585-0705  

Dear Secretary Abraham,

I am writing to applaud the formation of the Federal Task Force on Energy. The mission of the Task Force is critical to both the economic and environmental future of the nation. I am pleased to have the opportunity to submit the attached letter that presents a series of observations and policy recommendations that I hope the Task Force will find useful. A copy of this letter will also be sent by email and first class mail.

My colleagues and I would be pleased to discuss these issues further should that be of use to the Task Force, the Department of Energy, or other federal agencies.

Sincerely,

Daniel M. Kammen  
Associate Professor of Energy and Society  
Energy and Resources Group  
University of California, Berkeley

---

Co: The Hon. Richard Cheney, Vice President  
Governor Gray Davis, Governor of California  
Paula Bledsoe, Acting Director, Office of Science and Technology Policy  
Senator Frank H. Murkowski, Chairman, Senate Committee on Energy and Natural Resources  
Senator Jeff Bingaman, Ranking Member, Senate Committee on Energy and Natural Resources  
H.R. W.J. "Billy" Tauzin, Chairman House, Committee on Energy and Commerce  

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10889  
DOE016-0641  

Obtained and made public by the Natural Resources Defense Council, March/April 2002
February 16, 2001

The Honorable Richard Cheney, Vice President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Vice President Cheney:

We applaud your efforts as you begin a comprehensive review of U.S. energy policy. This critical initiative is long overdue, and is particularly relevant today as the California energy crisis illustrates the deficiencies in regional and national energy policy and planning. Additionally, as the threat of global climate change is becoming widely acknowledged in the U.S., there is a growing understanding that a responsible national energy policy includes a global climate change mitigation strategy that can be environmentally effective and economically advantageous.

We are concerned that the current crisis mentality pervading the discussions of energy issues in the country has fostered an ill-founded rush for “quick fix” solutions that, while politically expedient, will ultimately do the country more harm than good. It is critical to examine all energy options. The potential for renewable energy technologies and energy efficiency to have a significant positive impact on our energy future is such an example of an opportunity that demands far greater examination and commitment to implementation than we have seen to date.

In the last decade the case for renewable energy has become compelling economically, socially, and environmentally. For many years renewables were seen as environmentally and socially attractive options that at best occupied niche markets due to barriers of cost and available infrastructure. That situation has dramatically changed. Renewable energy resources and technologies – notably solar, wind, small-scale hydro, and biomass based energy, as well as advanced energy conversion devices such as fuel cells – have undergone a revolution in technological innovation, cost improvements, and in our understanding and analysis of appropriate applications. There are now a number of energy sources, conversion technologies, and applications, where renewable energy options are either equal,
or better, in price, and equal, or better, in services provided than are the prevailing coal, oil, and gas technologies. For example, in a growing number of settings in industrialized nations, wind energy is now the least cost option across all energy technologies with the added benefit of being quick to install and bring on-line, and modular. In fact, some farmers in the Midwest can generate more income per hectare from the electricity generated by a wind turbine on their land than from their crop or ranching proceeds. Furthermore, photovoltaic panels and solar hot water heaters placed on buildings and houses across America could help reduce consumers’ energy costs, produce a healthier living environment, and increase our energy supply while stabilizing our energy demand.

California’s energy crisis has recently caught the national attention and raised fundamental questions about regional and national energy strategies. Rising demand suggests the need for new energy supplies, and certainly some new energy capacity is needed. However, there is a wide range of options for achieving supply and demand balance, and some of these options are not being given adequate attention. Governor Davis in California is now emphasizing policies that put the state into the position of brokering power purchases. Not only is this unlikely to be economically efficient, it fails to address the underlying problems of market manipulation and under-investment in capacity expansion of new, clean, technology development and installation. We believe that statewide, public sector investment in renewable energy generation, combined with increased municipal control of electricity production and retail sales, would offer a better and more meaningful long-term solution to the problems that electricity deregulation has raised.

In general, the absence of state and federal leadership has meant that we have seen too few incentives for energy conservation and efficiency measures, little attention to appropriate power plant siting issues, and lack of long-term concern for transmission and distribution bottlenecks. At the national level drilling for oil in Alaska’s Arctic National Wildlife Refuge is one step that could be taken to increase oil supplies. Yet, it would have a negligible effect on electricity production, and would not significantly reduce oil prices, improve energy security, or alleviate the trade deficit. Any oil and gas found will be trivial in comparison with global production and long-term U.S. consumption. This combined with the economic and environmental costs of such a proposal make disrupting the Arctic Refuge an unnecessary step, and illustrate a lack of integrated energy planning.

We firmly believe that the ultimate solutions to meeting our nation’s energy needs must be based on private sector investment, bolstered by well-targeted government support such as tax incentives for emerging energy technologies and R&D. This must be coupled with policies that open markets to new generating capacity, rather than through federal subsidies for programs to increase energy supply using already mature technologies. This latter strategy would only generate near-term and incremental paybacks, while doing little to promote energy security or advance social and environmental goals. Instead, we now have the opportunity to build a sustainable future by engaging and stimulating the tremendous innovative and entrepreneurial capacity of the U.S. private sector. To accomplish this, we must develop policies that guarantee a stable and predictable economic environment for advancing clean energy technologies. This can be further bolstered by market incentives to reward actions that advance the public good. The Federal Energy Task Force has the opportunity to clarify federal policies, build a sustainable energy research base, encourage state and regional initiatives, and build dynamic markets and industries focused on clean energy options. With these thoughts in mind, we present several options that address both the short-term need to increase
energy supply and the long-term goal to have a sustainable, economic and environmentally sound
U.S. energy policy.

- **Increase federal R&D funding for renewable energy and energy efficiency technologies.** To
date, federal investment in renewable energy and energy efficient technologies has been sparse
and erratic, with each year producing an inappropriate battle that is often lost. The resulting
financial and policy uncertainty discourages effective energy technology development and
deployment in the marketplace. With energy now a clear national priority, funding for the U.S.
Department of Energy’s Energy Efficiency and Renewable Energy Program must be
substantially and systematically increased. The realization that R&D funding provides a critical
driver to economic growth resulted in important commitments, particularly in the life sciences, to
doubling R&D funding in five years. The same return on investment exists in the energy sector,
but it has not been translated into similarly increased R&D funding for new renewable and
energy efficiency technologies. If the U.S. expects to be a world leader in this industry, as it is in
the biomedical and high-tech sectors, such investments in renewable energy and energy
efficiency are essential. (See Appendix, Note 1)

- **Provide tax credits in addition to tax cuts for companies developing and using renewable
energy and energy efficiency technologies.** The R&D tax credit has proven remarkably
effective and popular with private industry, so much so that there is a strong consensus in both
Congress and the Administration to make this credit permanent. Clean energy must be a national
priority, and given the importance of private sector R&D in commercializing new technologies,
an additional tax incentive for R&D investment in renewable and energy efficiency technologies
is exactly the type of well-targeted federal policy that is needed. Furthermore, tax incentives
directed toward those who use the technologies would provide the ‘demand pull’ to accelerate
the technology transfer process and rate of market development. The U.S. has largely lost its
position as the global leader in energy innovation resulting in the loss of jobs and earning
potential for U.S. companies precisely at the time when the international market for clean energy
technologies is booming. Our domestic industries as well as the global energy economy would
both benefit directly from a renewed commitment to U.S. clean energy leadership.

- **Institute improved efficiency standards for residential and commercial water heating and
space heating and cooling, and motors and appliances.** Significant advances in heating and
cooling system efficiency, and for motors and many appliances, have been made, but more
improvements are technologically possible and economically feasible. A clear federal statement
of desired improvements in system efficiency is needed to remove uncertainty and reduce the
economic costs of implementing these changes. If such a federal mandate existed then efficiency
standards for heating and cooling, and for motors and appliances would begin to gradually
increase, helping to expand the market share of existing high efficiency systems, as well as
spurring a wealth of further improvements. (See Appendix, Note 2)

- **A federal renewable portfolio standard (RPS) to help build renewable energy markets.** The
RPS is a renewable energy content standard, akin to efficiency standards for vehicles and
appliances that have proven successful in the past. A gradually increasing RPS is an economic
way of ensuring that a growing proportion of electricity sales are provided by renewable energy,
and is designed to integrate renewables into the marketplace in the most cost-effective fashion.
In this manner, the market picks the winning and losing technologies and projects, not administrators. We recommend a 20–25 percent renewable energy component within ten to fifteen years, using market dynamics to stimulate innovation through an active trading program of renewable energy credits. (See Appendix, Note 3)

- Federal standards for net metering of distributed small-scale energy generation. Net metering allows customers to interconnect and feed surplus power back into the grid during periods when generation exceeds the customer’s own use. Such a system makes it easier and more affordable for customers to generate their own power from renewable energy sources or other distributed generation technologies. The use of net metering benefits customers, utilities, and independent power providers, and is particularly important for intermittent renewable sources, such as solar and small wind machines, which generate electricity only when the resource is available. A uniform federal standard is needed to replace the confusing and disparate array of state net metering programs currently in existence. (See Appendix, Note 4)

- Form a National Public Benefits Fund based on revenue collected from a national, competitively neutral wires charge. Such a fund could match state funds to assist in continuing or expanding energy efficiency, low-income services, the deployment of renewables, research and development, and similar public purpose programs the costs of which have traditionally been incorporated into electricity rates by regulated utilities. As the utilities have moved toward deregulation such public benefits funds have been disappearing.

- Improve federal standards for vehicle fuel economy. New hybrid vehicle technologies are beginning to enter the marketplace, offering significant improvements in vehicle fuel economy at modest incremental vehicle costs. Looking beyond the initial wave of gasoline hybrid vehicles, fuel cell vehicles are currently under active development by all of the large automakers and promise even higher efficiencies and still lower emission levels. The improvements in fuel economy that these new vehicle types offer would help to slow growth in petroleum demand, reducing our oil import dependency and trade deficit. While the Partnership for a New Generation of Vehicles helped to generate some vehicle technology advances, an increase in the Corporate Average Fuel Economy (CAFE) standard is required to provide an incentive for companies to bring these new vehicles rapidly to market. The potential for future hybrid and fuel cell vehicles to achieve over 100 miles per gallon is believed to be both technically and economically viable in the near-term, and needs only clear federal guidelines and support to move from planning to reality. (See Appendix, Note 5)

- Integrate domestic energy and environmental planning with U.S. global leadership. The need for leadership on the global climate issue has become particularly apparent with the lack of international cooperation at the recent climate meeting in The Hague. Past domestic political opposition to U.S. leadership in this area was based on outdated views of the science and economics of climate change. It is now widely understood that the costs of inaction on global warming can be catastrophic, while the benefits of actions to reduce the environmental impacts of energy use through new innovation, developing clean energy industries, and improving domestic air quality and health can be substantial. This represents the classic “win-win” scenario. Significant action on climate change mitigation now appears unlikely unless the U.S. takes on a significant leadership role. (See Appendix, Note 6)
If we hope to enjoy the type of prosperity in the coming century as we have in the past the work of the Task Force on Energy in formulating a new national energy policy must be carried out with careful consideration. We commend you for this auspicious undertaking and would be happy to elaborate further on any of the points raised above. Thank you for the opportunity to weigh in at this critical juncture in our country’s history.

Sincerely,

Daniel M. Kammen
Professor Daniel M. Kammen, Director
Renewable and Appropriate Energy Laboratory
Email: skammen@soocrates.berkeley.edu

Amita Herzog
Dr. Amita V. Herzog
University of California President’s Postdoctoral Fellow
Email: aberzog@soocrates.berkeley.edu

Timothy E. Lipman
Dr. Timothy E. Lipman
Postdoctoral Fellow, RAPL
Email: tulipman@soocrates.berkeley.edu

Cc:
Secretary of Energy
Governor of California
Office of Science and Technology Policy
Senate Committee on Energy and Natural Resources
House Committee on Energy and Commerce

Obtained and made public by the Natural Resources Defense Council, March/April 2002
Appendix: Supporting Materials and References

Many of the publications listed below are available on line at the Renewable and Appropriate Energy Laboratory's (RAEL) Internet site. The Publications Page is:
http://socrates.berkeley.edu/~rael/papers.html

Note 1: Federal R&D funding for renewable energy and energy efficiency technologies

Federal funding and leadership for renewable energy and energy efficiency projects has resulted in a small number of notable successes, such as the Energy Star and Green Lights Programs that have now been emulated in a number of countries. Despite these achievements, funding in this area has been both scant, and so uneven that private sector involvement has been actually discouraged. A combination of a federal program for steadily increasing funding and active political leadership would transform the clean energy sector from a good idea to a pillar of the new economy. In particular, promising technologies such as fuel cells deserve special attention. Fuel cell development is attracting significant public and private funding and offers the promise of being a keystone technology for the ultimate transition from natural gas, petroleum, and coal energy to a renewable and hydrogen-based energy economy.


President's Committee of Advisors on Science and Technology (PCAST) (1997) Federal Energy Research and Development for the Challenges of the Twenty-First Century (Washington, D.C.: Energy Research and Development Panel, President's Committee of Advisors on Science and Technology), November.

A second, and related issue is the structure of the Department of Energy itself. We have hindered, even crippled, the ability of the Department of Energy to investigate, promote and champion innovation in the energy sector by focusing much of its activities on the clean-up of the legacy of nuclear energy research and waste. While this is an important mission, it dominates the resources of the Department of Energy and prevents the focus from moving to current and future energy needs and opportunities. A separation of these functions is in order.

10895

DOE016-0647

Obtained and made public by the Natural Resources Defense Council, March/April 2002
Note 2: Efficiency standards for residential and commercial water heating and space heating and cooling, and motors and appliances.

A confluence of technical advances and economic and policy mechanisms now exists that could be utilized to dramatically reduce domestic, commercial and industrial energy needs. Federal leadership and partnership programs with state and regional organizations could produce dramatic improvements and cost reductions.


Note 3: A federal Renewable Portfolio Standard

All federal RPS proposals should use tradable renewable energy credits for compliance. Renewable credit trading is analogous to the sulfur allowance trading system established in the Clean Air Act. Like emissions trading, it is designed to be administratively simple and to increase flexibility and decrease the cost of compliance with the standard. Electricity suppliers can generate renewable electricity themselves, purchase renewable electricity and credits from generators, or buy credits in a secondary trading market.

The RPS is the current mechanism for securing the public benefits of renewables and for reducing their cost to enable them to become more competitive. It is a market mechanism, setting a uniform standard and allowing companies to determine the best way to meet it. The RPS will reduce renewable energy costs by:

- Providing a revenue stream that will enable manufacturers and developers to obtain reasonable cost financing and make investments in expanding capacity to meet an expanding renewable energy market.
- Allowing economies of scale in manufacturing, installation, operation and maintenance of renewable energy facilities.
- Promoting vigorous competition among renewable energy developers and technologies to meet the standard at the lowest cost.
- Inducing development of renewables in the regions of the country where they are the most cost-effective, while avoiding expensive long-distance transmission, by allowing national renewable energy credit trading.
- Reducing transaction costs, by enabling suppliers to buy credits and avoid having to negotiate many small contracts with individual renewable energy projects.


Note 4: Federal standards for net metering

Net metering eliminates the administrative expense of installing, trading, and billing for an additional meter to measure generation separately from consumption. During surplus generation
periods, the single meter spins backwards, so that the customer is billed only for the net amount of electricity consumed during a billing period. By facilitating small-scale generation by customers, net metering will help reduce loads on central generation, transmission and distribution, enhancing reliability as well as fuel diversity.


Note 5: Improved federal standards for vehicle fuel economy

After five years of Congressional bickering, studies on the potential for increases in CAFE standards to cost-effectively reduce petroleum demand are now underway by the Department of Transportation and the National Academy of Sciences. These studies, with results due in July 2001, will help to suggest optimal levels of increased standards, given the costs and benefits of higher fuel economy, as well as phase-in schedules that will protect the competitive interests of domestic automakers. The issue of raising CAFE standards is becoming increasingly relevant with progress in the PHEV program, and as several automakers are preparing to introduce high-efficiency fuel cell vehicles beginning as soon as 2003-2004.


Note 6: Climate change and the need for federal leadership

The U.S. can reduce greenhouse gas (GHG) emissions while improving our economic efficiency, creating jobs and saving consumer money, enhancing our technological leadership, and achieving other environmental benefits. The options presented in this letter not only represent a responsible energy strategy, but can also simultaneously address the need to reduce U.S. GHG emissions. In particular, they would support a range of strategies to reduce power plant emissions, which account for a substantial percentage of total U.S. emissions of greenhouse gases; 23 percent in 1998. These include switching from our current reliance on high-carbon fossil fuels, particularly coal and oil, to renewable fuels sources, which have zero carbon emissions, and lower-carbon natural gas; and increasing the efficiency of electricity generation and use.

We strongly support the recent initiatives in Congress, for which the current Administration has indicated it's backing, to reduce pollutant emissions from electricity generation. In the 106th Congress Senator Jeffords and Senator Lieberman introduced, S.1369, the Clean Energy Act of Congress. 

10897

DOE016-0649

Obtained and made public by the Natural Resources Defense Council, March/April 2002
1999. This legislation contained provisions that addressed the environmental damage and competitive distortions created by the patchwork of unequal and inadequate standards that currently apply to electric power plants nationwide. The bill put a national cap on emissions from all power plants of nitrogen oxides, sulfur oxides, mercury, and carbon dioxide. The reductions in carbon dioxide would have brought emissions levels back to 1990 levels by 2005, the same level implied by the non-binding targets of the Rio Treaty of 1992, as ratified by the U.S. Senate. Legislation that controls the four major power plant pollutants in an integrated package will help reduce uncertainties for electric generators and will be less costly than separate programs for each pollutant. Integrated control encourages system-wide efficiency improvements and increased utilization of cleaner fuels. And while voluntary action by American companies is an attractive option to consider, in the last ten years voluntary actions have failed to reduce carbon dioxide emissions in the U.S. Instead, emissions have increased by 15 percent since 1990 and continue to increase.


Joe,

---Original Message---
From: Kelliher, Joseph
Sent: Monday, April 30, 2001 4:10 PM
To: Kelliher, Joseph
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

Joe,

---Original Message---
From: Angulo, Veronica
Sent: Monday, April 30, 2001 3:44 PM
To: Kelliher, Joseph
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

Joe,

---Original Message---
From: Kelliher, Joseph
Sent: Friday, April 27, 2001 6:04 PM
To: Angulo, Veronica
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program
From: Angulo, Veronica
Sent: Wednesday, April 25, 2001 5:39 PM
To: Kelliher, Joseph
Subject: Actions in Connection with Presidential Permitting Process and Gas Export Program

Just to recap on our conversation today, these are the actions that might work:

I am brainstorming about others.
Joe,

Just to recap on our conversation today, these are the actions that might work:

I am brainstorming about others.
From: Angulo, Veronica
Sent: Monday, April 30, 2001 3:44 PM
To: Kelliher, Joseph
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

Joe,

-- Original Message --
From: Kelliher, Joseph
Sent: Monday, April 30, 2001 4:10 PM
To: Angulo, Veronica
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

Joe,

-- Original Message --
From: Angulo, Veronica
Sent: Monday, April 30, 2001 11:26 AM
To: Kelliher, Joseph
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

Joe,

From: Kelliher, Joseph
Sent: Friday, April 27, 2001 8:04 PM
To: Angulo, Veronica
Subject: RE: Actions in Connection with Presidential Permitting Process and Gas Export Program

10902

DOE016-0654

Obtained and made public by the Natural Resources Defense Council, March/April 2002
Just to recap on our conversation today, these are the actions that might work:

I am brainstorming about others.
Just to recap on our conversation today, these are the actions that might work:

I am brainstorming about others.
GLOBAL ENVIRONMENTAL SOLUTIONS
P. Benjamin Underwood, Esq.
Maritime Building, Suite 100G
215 East Bay Street
Charleston, S.C. 29401

March 22, 2001

The Honorable Spencer Abraham
Secretary
United States Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

RE: Coordinating the National Energy Policy and the National Environmental Policy Act (NEPA)

Dear Secretary Abraham:

I congratulate you on your recent speech before the U.S. Chamber of Commerce at the National Energy Summit. Having arrived at the brink of a new energy crisis, due in large part to nearly a decade of political shortsightedness, I applaud your efforts to propose and implement a National Energy Policy. I would also like to propose a solution to a legal issue that you and the Administration will no doubt confront very soon.

As you and the Administration prepare to announce a proposed energy policy to the nation, I would suggest that there is a statutory tool that could serve you, the Energy Task Force, and the Administration quite well, if applied strategically. This statutory tool consists of the environmental process requirements within the National Environmental Policy Act (NEPA). Too often, Federal agencies forsake the opportunity to use the procedural requirements of NEPA to their full advantage, especially when confronting a new policy or plan. Instead, environmental compliance becomes an afterthought and the obligatory process fails to provide the political gains and legal protection of a well-designed NEPA strategy.

An objective reading of 40 CFR §1508.18(b) by your attorneys will confirm that NEPA applies to the adoption of a proposed national energy strategy. The critical question for the Administration, therefore, is not whether, but when and how to satisfy the procedural requirements of the statute. May I suggest that it would be to the Administration's strategic advantage to implement the procedural requirements of NEPA as soon as practicable and to utilize a policy-level approach to statutory compliance. The benefits of such a strategy would be many, including: 1) the immediate recognition that the Administration takes environmental requirements seriously; 2) reassurance to a suspicious public that the development of a national energy policy will be an above-board process with ample opportunity for public involvement; 3) an acceleration of the actual implementation of the new energy policy and ensuing site-specific actions; and 4) the
establishment of a strong legal position from which to defend against the inevitable challenge.

DOE is fortunate to employ some of the best NEPA talent in the country. Carol Borgstrom, Bill Dennison, Marc Johnston, Steve Ferguson, to name just a few, are outstanding practitioners and counselors. Additionally, the staff at the Council on Environmental Quality (CEQ), which oversees NEPA compliance nationally, relies upon the exceptional guidance of Dinah Bear and others. Some of the other Federal agencies that would necessarily cooperate in the development of a national energy policy also have NEPA advisors with varying degrees of expertise. Nevertheless, with all this talent, designing an effective NEPA strategy to advance a national energy policy will be an enormous undertaking and require creative thinking "outside the box."

May I suggest that a policy-level document recently prepared by DOE's Bonneville Power Administration (BPA), which evaluates the alternative means to balance regional energy production and fish and wildlife mitigation, would serve as a useful analytical model for a NEPA process to support the national energy policy. This BPA NEPA process is an outgrowth of another policy-level NEPA document prepared for the Agency's business plan, which was lauded by the United States Court of Appeals for the Ninth Circuit as "superior." In my opinion, the methodology employed by BPA to examine energy and environmental issues in the Pacific Northwest could be modified and expanded to evaluate similar issues on a national scale.

To be completely candid, I assisted BPA, as a consultant, in the preparation of the aforementioned policy level NEPA document and am very proud to have contributed to the development of this unique document. I have approached bigger, more recognized NEPA consulting firms about jointly proposing a procedural solution for a national energy policy, but I sense that they either fear the vastness of this project or are unwilling to step "outside the box" to change their standard approach to NEPA compliance. In my opinion, however, it is the very enormity of the project that mandates a different procedural approach, as BPA was willing to do with respect to their analysis of energy production and endangered salmon.

It now occurs to me that DOE and the Administration may be further along than anticipated and, probably feared, in the development of a strategy that will satisfy an important environmental compliance requirement, involve and inform the public, advance an energy policy long overdue, and provide legal protection. I would further suggest that the cost of fulfilling these goals could be considerably less than some may propose. Much of the talent necessary to do the job is scattered around the country, but already on the government payroll. I predict that the challenge of being associated with such a substantial and unique NEPA project would be of great interest to these individuals. No doubt, such an endeavor would require a recommitment of resources, but the job need not cost the many millions that some will no doubt suggest.

In closing, as one who has seen good, bad and ugly NEPA processes, I strongly suggest that DOE, the Interior Department, CEQ, EPA and others begin to design a
NEPA strategy today that will position the Administration where it wants to be a year or two down the road. The sooner you start, the sooner you can actually begin to solve the problem to your greatest advantage.

I appreciate your valuable time.

Sincerely,

[Signature]

P. Benjamin Underwood, Esq.

cc: The Honorable President of the United States George W. Bush
The Honorable Vice-President of the United States and Chairman of the Energy Task Force Richard Cheney
The Honorable Secretary of Interior Gale Norton