



July 7, 2009

Ms. Nancy Sutley
Chair
Council on Environmental Quality
730 Jackson Place, N.W.,
Washington, DC, 20503

The Council's July 1, 2009, "Notice and Request for Suggestions" on the revision of the Principles and Guidelines for water resources projects causes the Water Resources Coalition serious concern. The Coalition believes the Notice exceeds the authority and mandate of the Council on Environmental Quality, is contrary to the will of Congress as expressed in Section 2031 of the Water Resources Act of 2007, is vague in its proposed scope and application, and provides an insufficient time for public comment. In addition, we believe CEQ has developed this and related proposals in a manner that is not consistent with the standard of transparency to which this Administration is committed and the public deserves. For these reasons, we call upon CEQ to withdraw its July 1 Notice.

The Notice states that the "Administration is considering developing uniform planning standards for the development of water resources that would apply government-wide". However, there is no definition of "government-wide" and no listing of the agencies and/or water resources programs to which the Notice applies. There are many unanswered questions that arise from this vagueness. For example, what is CEQ's definition of a "water resources project"? Does the proposal apply to agencies (for example, NOAA and EPA) engaged in environmental or other projects that are related to navigation, coastal or other projects? Has CEQ informed the agencies to which its proposed revision to the P&G may apply that they should be aware of the Notice? If so, who are these agencies? If CEQ cannot state with any clarity which "government-wide" agencies and programs will be affected, the Coalition believes that the public cannot be expected to know who should respond to the Notice. A public meeting or workshop prior to any reissuance of a Notice would help to clarify these and other questions.

The Notice cites Section 2031 of the Water Resources Act of 2007 that directs the Secretary of the Army to revise the P&G "consistent with a number of considerations

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enumerated in the statute." The July 1st Notice also states that it is CEQ who "will facilitate an interagency drafting of the revised Principles and Guidelines that could be applied government-wide. Upon completion, the revision would apply to Federal water resources implementation studies including project reevaluations and modifications." We believe this has no basis in law.

On June 29, 2009, CEQ sent an email to "Interested Parties" stating the following: "Please be assured that if you have previously commented on the 1983 P&G you do not have to do so again as those comments are available to CEQ from the Army." The comments made by the public in 2008 were in response to a proposed revision to the 1983 P&G. They were not made, nor were they requested to be made, on the 1983 P&G. This assurance of the lack of need to submit comments to the July 1st Notice is confusing.

While many of our members support a revision of the P&G, Section 2031 of WRDA '07 clearly does not give the CEQ authority to take the lead in this effort. That authority applies only to the Secretary of the Army and the water resources program of the Army Corps of Engineers. Congress was quite clear as to what it wanted to be done, who Congress wanted to do it, and what specific "considerations" should be integral to that process. The Coalition believes the CEQ Notice is not consistent with the statutory provisions of WRDA and thereby ignores the will and exceeds the mandate of Congress as expressed in Public Law 110-114.

In the interest of transparency, the Coalition believes CEQ should reveal the source or sources of the funding that enabled CEQ to prepare for the issuance of its July 1st Notice. This question is especially important if CEQ has had meetings with interest groups and/or individuals as it prepared for the issuance of the July 1st Notice. It is also time to shed light on the events that have transpired to date under CEQ's auspices and which agency's funds have been used to pay for the time they required to date and that are proposed for the future. Should those funds have come from other Federal agencies, the public has a right to know the source of those funds, the authority to expend those funds, the terms of any interagency funding agreements, and whether those agreements remain in effect.

Prior to the issuance of the July 1st notice, if CEQ held meetings with various individuals, groups, or government agencies to determine their concerns and suggestions for a revised P&G, the Coalition calls on CEQ to make this process transparent and place on the public record who these interested parties are, with whom they met at CEQ, when they met, and what their concerns and/or recommendations are. This is especially important since the comments of those who respond to the July 1st Notice will be on the public record, while it is possible that some parties with whom CEQ met prior to the issuance of the Notice may not choose to make their comments public in response to the Notice.

The Notice requires comments to be made up through July 17th, approximately 14 business days from the date of issue. It further includes only one webinar on July 13th

for individuals and organizations to "submit suggestions for revising the Principles and Guidelines." We cannot imagine a situation where the revision of government standards that have been in existence for over a quarter of a century, and the expansion of those standards to other unnamed agencies, would be undertaken with so short a notice and with so little opportunity for public discussion.

Finally, we understand that CEQ has informally stated that extensions of the comment period can be made on a case-by-case basis. The Coalition believes that any such allowance made for individuals or organizations should be accommodated by a published modification of the July 1st Notice to extend the period for public comment. However, this issue is irrelevant. For the reasons cited above, the Notice is fatally flawed, and the Water Resources Coalition calls on CEQ to withdraw it promptly.

Sincerely,



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Co-Chairman
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Marco Giamberardino
Co-Chairman
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cc: LTG Robert L. Van Antwerp Jr., P.E., Chief of Engineers, U.S. Army Corps of Engineers
Lisa Jackson, Administrator, Environmental Protection Agency
Michael L. Connor, Commissioner, Bureau of Reclamation
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