

July 23, 2003

James L. Connaughton, Chairman
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Re: Rocky Mountain Energy Council

Dear Chairman Connaughton:

We are writing to question the Rocky Mountain Energy Council set up by the Council on Environmental Quality (“CEQ”) through its Energy Project Streamlining Task Force. CEQ has apparently established this Energy Council to address energy development in five states in the Rocky Mountain region: Utah, Colorado, Wyoming, Montana and New Mexico. No effort has been made to give citizens, public land users, private land owners, and other stakeholders most directly affected by oil and gas drilling a meaningful role in the Energy Council. Since its formation, the Task Force has not taken any meaningful steps to enhance environmental protection. The Energy Council appears to be another effort to focus land management agencies exclusively on expediting mineral development regardless of the impacts.

CEQ was established over 30 years ago to “foster and promote the improvement of environmental quality” in this country. 42 U.S.C. § 4344(3). The statute that created CEQ, the National Environmental Policy Act (“NEPA”), also provides for environmental review and public participation of federal actions. CEQ was set up to defend this process. Yet, the Energy Council seems poised to undercut it.

We urge you to either disband the both the Rocky Mountain Energy Council and the Energy Streamlining Task Force, or refocus their work to further the central mission of CEQ – environmental protection.

1. The Rocky Mountain Energy Council should be open to the public.

The public’s business should be done in public. The Energy Council is involved in managing public lands and is spending public funds. Yet, the council’s first meeting held in Denver on July 8-9, 2003, was closed to the public. In addition, repeated requests by citizens and reporters for information about the meetings agenda and attendees were denied. As the Denver Post said in its July 8, 2003, editorial, “If the administration wants to toss aside environmental protections or otherwise rewrite rules governing natural gas development on federal lands, it should let the American public in on the decisions.”

2. The Rocky Mountain Energy Council should focus on protecting the environment and communities.

CEQ appears to have lost sight of its central mission of protecting the environment. To date, the administration's actions have focused on opening up as many new areas to oil and gas drilling as quickly as possible. Such drilling can have devastating impacts on the environment and surrounding communities, including damage to drinking water supplies, fish and wildlife habitat and populations, soil and water quality, and recreation. Neither the task force nor the Energy Council has taken any affirmative steps to enhance environmental protection. We encourage the council to take the following steps that could both speed up project approvals and lessen their impact on the environment and local landowners.

- **Notify Surface Owners**

Much of the new oil and gas drilling, for coal bed methane ("CBM") in particular, is being done on split estate lands where the federal government owns and leases the oil, gas and coal bed methane resources under private property. Many of these landowners have used the land for generations for farming and ranching. They are often unaware that the Bureau of Land Management ("BLM") has leased federal minerals under their land, and often do not have any knowledge of or input into lease requirements, lease modifications or drilling permits. Providing additional notice, public outreach and education to landowners would serve a valuable purpose and could reduce the conflict that surrounds new oil and gas drilling in the Rocky Mountain region.

- **Improve Monitoring**

Too often agencies are relying on old, out-dated information to justify new actions. For example, the BLM has relied on old—some as many as ten and twenty years old—resource management plans (RMPs) to justify coalbed methane development that was never addressed in those plans nor the environmental analysis that accompanied them. CBM development results in unique and substantial environmental impacts and will continue to be highly controversial until federal agencies develop a management plan aimed at protecting and conserving valuable water and land. The public is poorly served by denials that CBM results in significant adverse impacts or claims that the problems encountered in currently producing basins will not be replicated in newly targeted regions.

While some new development may be appropriate, the BLM must involve the public in a meaningful way to determine how much and in what manner it occurs. BLM should not rely on old data to circumvent this public process. As BLM updates its planning base in the coming years, CEQ should be advocating for balanced resource use. The Time-Sensitive Plan revisions completed to date have not substantiated the administration's public pronouncements that energy development can be balanced with adequate levels of environmental protection on private and public lands.

To date, the Energy Streamlining Task Force has focused exclusively on perceived “impediments” to energy project permitting and approvals. The Task Force needs reminding that some lands with mineral potential should be protected from development or surface occupancy. On lands appropriate for development, CEQ should be working with agencies to lessen surface damage by facilitating “minimum footprint” technologies such as directional drilling and multiple bores from a single wellpad.

CEQ should assist land managers in obtaining the resources to complete data collection necessary to analyze the impacts of their decisions adequately. Baseline data about current conditions are needed in order to be able to assess the impacts of a proposed action. In addition, monitoring is needed to assess the actual impacts that occur once a decision is implemented. Unfortunately, monitoring and mitigation, even when provided for in an EIS, frequently do not occur. Oil and gas companies should help fund the needed monitoring. There is no reason why monitoring costs should not be included in the cost of doing business.

- **Enhance Inspection and Enforcement**

The council should also assist federal and state agencies with inspection and enforcement of project conditions designed to protect the environment. Simply putting environmental protections on paper is not enough. Too often, agencies lack the commitment and resources to ensure compliance with the protections. For example, in Montana, just one inspection of a coalbed methane field by representatives of the Northern Plains Resource Council revealed two illegal discharges of wastewater with toxic levels of sodium and dissolved salts into a tributary of the Tongue River. In Utah, large seismic exploration trucks caused irreparable damage to fragile soils by using tire chains during wet conditions despite an explicit prohibition on such activities contained in BLM’s approval of the project. In New Mexico, the Farmington Resource Area failed three straight BLM Inspection and Compliance Reviews in 1994, 1998 and 2000. However, CEQ has not shown any interest in bringing this high-density gas field into compliance with federal law and policies.

- **Adopt a Conservative Approach**

The Energy Council was originally conceived as a “pilot project.” It has changed into a region-wide initiative incorporating all public lands within the five Rocky Mountain states with the greatest mineral reserves. Land managers need to test new procedures and strategies in a limited geographic area, such as one or two BLM Resource Areas, before applying them across the region. Experimental policies need to be monitored for potentially harmful environmental impacts, as well as their “streamlining” record. Public participation is key to the acceptance and success of new strategies. A cautious approach is warranted in light of the widespread damage to natural ecosystems that is already resulting from increased mineral development across the region.

Conclusion

Much can be done to improve how energy development occurs throughout the West, but excluding the public is not the solution. As the Salt Lake Tribune said recently, “impediments to extracting this [natural] gas are being oversold in order to justify cutting the public out of the process.” For over 30 years, the public has looked to CEQ to be a strong voice for the environment in the White House. We urge you to take affirmative steps to continue this legacy for the Rocky Mountain West.

Sincerely,

Sharon Buccino
Senior Attorney
Natural Resources Defense
Council
Washington, DC

Gwen Lachelt
Executive Director
Oil & Gas Accountability Project
Durango, CO

Mike Chiropolos
Lands Program Director
Western Resource Advocates
(formerly Land and Water Fund
of the Rockies)
Boulder, CO

Noah Matson
Director, Public Lands Program
Defenders of Wildlife
Washington, D.C.

Dan Heilig
Executive Director
Wyoming Outdoor Council
Lander, WY

Adam Werbach
Executive Director
Common Assets Defense Fund
San Francisco, CA

Sandy Shea
Public Lands Director
High Country Citizens' Alliance
Crested Butte, CO

Jeremy Puckett
Assistant Director / Public Lands
Coordinator
Western Slope Environmental
Resource Council
Paonia, CO

Michael J. Painter
Coordinator
Californians for Western
Wilderness
San Francisco, CA

Matthew Garrington
Energy Organizer
Environment Colorado
Denver, CO

Terrence Kardong
Chair, Energy Issue Team
Western Organization of
Resource Councils
Richardton, ND

Nancy Sorenson, Chair
Powder River Basin Resource
Council
Arvada, WY

David Alberswerth
Director, Bureau of Land
Management Program
The Wilderness Society
Washington, DC

Tiernan Sittenfeld
Conservation Advocate
U.S. PIRG
Washington, DC

Dan Teigen, Chair
Northern Plains Resource
Council
Billings, MT

David Stalling
Western Field Coordinator
Trout Unlimited
Missoula, MT

Michael Scott
Executive Director
Greater Yellowstone Coalition
Bozeman, MT

Elise Jones
Executive Director
Colorado Environmental
Coalition
Denver, CO

Tom Lustig
Senior Staff Attorney
National Wildlife Federation
Boulder, CO

cc: Secretary Gale Norton,
Department of the Interior