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RE: Comments on the interim final rule amending National Environmental Policy Act implementing regulations: Department of the Interior, Docket No. DOI-2025-0004.

The Western Urban Water Coalition (WUWC)¹ appreciates the opportunity to provide comments on the interim final rule amending National Environmental Policy Act (NEPA) implementing regulations.² As discussed in these comments, WUWC seeks predictability, efficiency, and accountability in environmental review and infrastructure authorization decision-making processes provided by the NEPA process. The interim final rule published by the U.S. Department of Interior (DOI) on July 3, 2025, does not implement important provisions for discipline and accountability that were adopted by the Trump Administration in 2020 and enacted by Congress in 2023 for environmental review and permitting processes. In this letter, WUWC provides recommendations for revising DOI's NEPA procedures and offers further assistance to ensure environmental review and permitting support the efficient decision-making process envisioned in 2020 and partially codified in 2023. WUWC's goal is to create a consistent, reliable and coordinated environmental review and authorization process with transparent oversight and accountability.

Introduction

WUWC was established in 1992 to address the unique water supply and water quality challenges that threaten the economic sustainability and growth of the western population centers. WUWC

¹ WUWC consists of the following members: **Arizona** (Central Arizona Project, City of Phoenix and Salt River Project); **California** (Eastern Municipal Water District, East Bay Municipal Utility District, City of Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water District, and City and County of San Francisco Public Utilities Commission); **Colorado** (Aurora Water, Colorado Springs Utilities, and Denver Water); **Idaho** (City of Boise Water); **Nevada** (Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority); **New Mexico** (Albuquerque Bernalillo County Water Utility Authority); **Utah** (Salt Lake City Public Utilities and Washington County Water Conservancy District); and **Washington** (Seattle Public Utilities).

² DOI National Environmental Policy Act Implementing Regulations, RIN 1090-AB18.

includes many of the largest urban water utilities in the West, which together serve more than 40 million urban water consumers in 21 major metropolitan areas across eight states. Some of our member utilities also operate wastewater, stormwater, and electric generation facilities, particularly hydropower facilities.

WUWC is committed to furthering the needs and values of Western cities to provide reliable, high quality, sustainable urban water supplies for present and future generations. As operators of public water supply systems, WUWC members are critical to meeting the health, environmental, and economic needs of the communities they serve around the clock every day of the year. WUWC advocates for effective and practicable approaches to the construction and operation of water supply infrastructure critical to the economic growth, natural resource sustainability, and quality-of-life in Western states. WUWC has extensive experience working with federal agencies on initiatives related to NEPA implementation. We have appeared before congressional committees, met with federal agencies, and provided input on proposed NEPA regulations and guidance. WUWC members engage regularly with federal agencies involved in authorizing operations requiring federal approval, including facilities on or adjacent to federal lands and waters. WUWC members are active collaborating partners with federal agencies and a variety of stakeholders.

WUWC supports the goals of NEPA and recognizes the value of thorough environmental review and public participation while balancing maintenance and construction of critical infrastructure to meet our water supply missions. Done well, environmental review leads to better, more resilient projects and timely decisions. NEPA procedures that are predictable, efficient, and hold agencies accountable are necessary to achieve those goals.

Summary of Comments

WUWC has consistently supported revisions to NEPA rules that improve interagency coordination, encourage effective public and stakeholder participation, clarify analytical requirements, and decrease project timelines. Revisions focused on these efforts streamline environmental review and approval of critical water infrastructure projects, ultimately improving the nation's water supply and resiliency. The goals for any reform of these decision-making processes should be an effective environmental review, made possible through predictability, efficiency, and accountability:

Predictable – the standards for environmental review and consultations should be objective and clear, with predictable outcomes both in terms of the mitigation (avoiding, minimizing, and compensating) for significant environmental effects and the timing of agency decisions regarding those effects. The information and analyses required, including required technical data and public comment procedures to inform agency decision-making, should also be clear and predictable. A clear understanding of each agency's scope of NEPA decision-making review and authority is a critical element.

Efficient – the environmental review process should be managed efficiently by the agency decision-makers it is intended to serve, with the assistance of Chief Environmental Review and Permitting Officers and trained professionals responsible for day-to-day judgments. These individuals must be equipped with the necessary information resources to make informed decisions. This is particularly important for identifying the root causes of delay, including resource

and information needs, and for ensuring that responsible officials are empowered to resolve issues and make the judgments necessary to complete decision-making processes.

Accountable – transparency is essential for an effective environmental review process, and cooperating agencies, applicants, and the affected public should know exactly where the agency decision-making process stands at any moment. This is particularly important for WUWC members, because we are public agencies performing a critical service for the populations that we serve. Starting with the initiation of a proposal for agency action, by application or agency initiative, stakeholders should have access to accurate information on the status of agency actions from the scoping of environmental effects to the implementation of mitigation and monitoring.

In these comments, WUWC proposes specific steps that all agencies implementing NEPA should take to improve the predictability, efficiency, and accountability of environmental review.

A. Predictable standards for environmental review and consultations.

The regulatory regime governing environmental review of federal land and water resource management decisions was established over 50 years ago in guidance from the Council on Environmental Quality (CEQ). After the Trump Administration’s update to the CEQ regulations in 2020, the Fiscal Responsibility Act of 2023 (FRA) amended NEPA to incorporate aspects of those regulations, including deadlines for environmental assessments (EAs) and environmental impact statements (EISs), and provisions for applicant participation in the development of environmental documents. The 2025 CEQ report on environmental impact statement timelines indicates that those NEPA reforms were working, with the median time from Notice of Intent to Final EIS reduced to 2.4 years, and the number of EISs completed within two years rising to 39 percent by 2024.³

Important aspects of NEPA implementation are not codified, however, including the criteria for identification of “significant” environmental effects, the requirements for “scoping” the environmental impact assessment, requirements for interagency coordination and stakeholder and public involvement, and timely issue resolution. In light of CEQ’s rescission of its NEPA implementing regulations,⁴ the responsibility falls to implementing agencies to ensure efficient agency environmental review and authorization decisions. The interim final rule does not fully meet that responsibility and could cause significant disruption of ongoing agency actions due to confusion regarding the applicable law and concerns over potential litigation. The potential for litigation is increased because courts no longer have the CEQ or implementing agency regulations to guide their review of agency NEPA interpretation, resulting in greater potential for variation in agencies’ application of NEPA and less clarity for stakeholders on what agencies require to complete the NEPA process.

³ https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2025-1-13.pdf

⁴ 90 Fed. Reg. 10610 (Feb. 25, 2025).

The interim final rule replaces the long-standing regulations governing agency NEPA practice, the agency interpretation of which is entitled to deference,⁵ with general regulations that leave important details of the NEPA process in a handbook and delegate significant discretion to responsible officials for how to interpret and implement NEPA on a case-by-case basis. WUWC is concerned this level of discretion and variability across projects may lead to less efficient and less predictable environmental review. WUWC believes it would be more predictable and efficient for DOI to adopt a system of NEPA regulations that establishes threshold determinations of the level of environmental review and provide for senior agency official oversight of NEPA processes, as provided in the Trump administration's 2020 NEPA regulations.

WUWC is also concerned that the interim final rule overreaches to claim discretion not provided to DOI by NEPA, including the authority over whether to allow an applicant to prepare an environmental document, authority to demand an expanded scope of information at any time, and authority to close the environmental review process to the agency's preferred sources of information.⁶ Instead of providing for interagency coordination of effects analysis and issue resolution, in consultation with the project sponsor, the interim final rule indicates that such coordination is discretionary and may only be used "to verify the analyses if potential significance of an effect or issue is not clear."⁷ DOI should adopt regulations for interagency coordination of effects analysis and issue resolution, in consultation with the project sponsor. A predictable and transparent environmental review process would be consistent with NEPA Sec. 107(f), 42 U.S.C. 4336a(f), which authorizes project sponsors to prepare EAs and EISs. WUWC urges DOI to propose new rules that require DOI to authorize project sponsors to prepare NEPA documents as required by statute.

This approach would enable efficient environmental review and authorization processes and reduce confusion and potential litigation. There is continuing value to be found in the framework, logic, and guidance developed under nearly fifty years of NEPA regulations, particularly in the context of interagency coordination, which provides predictability across projects and helps projects withstand appeals and litigation. Therefore, WUWC has requested that CEQ use its statutory authority to interpret NEPA and issue detailed guidance, including model NEPA

⁵ *Kisor v. Wilkie*, 588 U.S. 558, 566 (2019) (describing *Auer* deference). Handbooks are only guidance documents, because they do not prescribe substantive rules and are not adopted in compliance with the procedural requirements of the Administrative Procedure Act. *Western Radio Services Co., Inc. v. Espy*, 79 F.3d 896, 901 (9th Cir. 1996).

⁶ 46 C.F.R. § 46.107(a) ("A Responsible Official has discretion to allow an applicant or applicant-directed contractor to prepare an environmental impact statement or an environmental assessment (including analysis supporting these documents). A bureau may request more information, revise analysis methodologies, or choose not to use an environmental impact statement or an environmental assessment prepared by an applicant or its contractor at any time.").

⁷ 46 C.F.R. § 46.107(c) ("To maintain the scientific quality and integrity of the impact assessment, if in-house expertise is not available for the technical evaluations, another bureau or cooperating agency may be used, as needed, to verify the analyses if potential significance of an effect or issue is not clear."). At a minimum, WUWC recommends this language be amended: "To maintain the scientific quality and integrity of the impact assessment, if in-house expertise is not available for the technical evaluations, another bureau, ~~or~~ cooperating agency, **applicant or contractor** may be used, as needed, to verify the analyses if potential significance of an effect or issue is not clear, **and to otherwise provide the Responsible Official assistance to independently evaluate the environmental impact statement or environmental assessment.**"

regulations, that provide a basis for consistent and predictable interpretation of NEPA across all agencies.⁸

To provide more predictability in the scope and timing of environmental review processes, WUWC requests that DOI adopt NEPA procedures that recognize CEQ and the Permitting Council authority for environmental review and infrastructure authorization processes. In particular, agency NEPA procedures should implement Title II of NEPA and Title 41 of the FAST Act by restoring a unitary environmental review and authorization process with CEQ authorized to resolve interagency conflicts over the scope of environmental review, issues regarding the significance of impacts, data quality issues, and harmonizing environmental review and mitigation standards across agencies. Agency NEPA procedures should specifically require compliance with the procedures of Title 41 of the FAST Act (FAST-41), including development of Coordinated Project Plans and maintaining Permitting Dashboard tracking, for all infrastructure projects decisions.

B. Efficient environmental review and authorization processes.

The Fiscal Responsibility Act codified regulatory deadlines for EISs and EAs but did not address the agency management requirements that make timely environmental review possible. The two-year goal for completion of EISs began as Executive Order 13807 direction to agencies to achieve a two-year average across their entire NEPA programs through programmatic improvements. Without management support, the statutory two-year deadline is arbitrary and a requirement that agencies will negate by delaying the formal start of their NEPA processes. To carry out this mandate, federal agencies should adopt clear standards for use by appropriately trained and managed officials to ensure that environmental reviews under the interim final rule will be consistent, expeditious, and reduce the risk of litigation, which are critical goals for water suppliers.

The 2020 CEQ NEPA regulations introduced welcome reforms requiring federal agencies to make threshold determinations about the scope of agency authorities to undertake major federal actions, the significant environmental effects that are normally evaluated in the exercise of those authorities, and to designate senior agency officials to oversee the environmental review process and resolve scoping issues for major federal actions.⁹ Those reforms tasked senior officials with ensuring that environmental reviews would be conducted efficiently, that statutory deadlines would be met, and that interagency coordination would be effective throughout the process. By elevating responsibility to senior leadership, the regulations aimed to expedite decision-making, address and resolve disputes or delays early in the process, and enhance overall accountability for compliance with NEPA requirements. This approach was intended to streamline the environmental review process while maintaining rigorous environmental standards and public transparency.

The interim final rule does not follow this approach because DOI is not required to make public its threshold determinations of NEPA's applicability or identification of actions that are normally evaluated in an EIS or EA. For example, DOI's NEPA Handbook identifies a few actions as

⁸ See WUWC, Comments to CEQ on CEQ's Interim Final Rule, "Removal of National Environmental Policy Act Implementing Regulations," 90 Fed. Reg. 10610 (Feb. 25, 2025), Docket No. CEQ-2025-0002-0001 (submitted March 27, 2025 via www.regulations.gov/).

⁹ 85 Fed. Reg. 43304 (July 16, 2020).

normally requiring EIS or EA analysis, but with notable gaps (none of the Bureau of Reclamation actions are identified) ¹⁰ and the Handbook lacks authority that would be entitled to deference. Nowhere does DOI present a reasoned basis for this change in procedure.

Retaining only the agency categorical exclusions, the interim final rule dispenses with the list of “extraordinary circumstances” that guide the application of a categorical exclusion to ensure that the excluded action will not have significant effects.¹¹ Even such potentially significant effects as a violation of “a federal, state, local or tribal law or requirement imposed for the protection of the environment” are dismissed as “a question that goes beyond the procedural requirements of NEPA and may be better considered and appropriately addressed by the Responsible Officer [sic] when making the decision on the proposed action.”¹² By leaving the application of categorical exclusions to the discretion of any responsible official, the interim final rule undercuts the basis for agency findings that these categories of actions do not normally have significant effects.¹³

To enhance the efficiency of environmental review processes, we recommend that DOI enact regulations that set threshold determinations of NEPA application. We also recommend that DOI codify requirements for use of senior agency officials, supported by Chief Environmental Review and Permitting Officers, to resolve scoping issues and ensure compliance with project milestones. Agency authorization processes should provide for application processes that ensure that infrastructure project proponents can appeal to senior agency officials where necessary to address

¹⁰ The prior version of the Departmental Manual, 516 DM 14, provided for at 14.4 Major Actions Normally Requiring an Environmental Impact Statement (EIS):

A. The following types of Reclamation proposals will normally require preparation of an EIS:

- (1) Proposed Feasibility Reports on water resources projects.
- (2) Proposed Definite Plan Reports on water resources projects if not covered by an EIS at the feasibility report stage or if there have been major changes in the project plan which may cause significantly different or additional new impacts.
- (3) Proposed repayment contracts and water service contracts or amendments thereof or supplements thereto, for irrigation, municipal, domestic, or industrial water where NEPA compliance has not already been accomplished.
- (4) Proposed modifications to existing projects or proposed changes in the programmed operation of an existing project that may cause a significant new impact.
- (5) Proposed initiation of construction of a project or major unit thereof, if not already covered by an EIS, or if significant new impacts are anticipated.
- (6) Proposed major research projects where there may be significant impacts resulting from experimentation or other such research activities.

B. If, for any of the proposals it is initially decided not to prepare an EIS, an Environmental Assessment will be prepared and handled in accordance with Section 40 CFR § 1501.4(e)(2).

¹¹ 40 C.F.R. § 1501.4 (2020).

¹² 90 Fed. Reg. 29501.

¹³ NEPA Sec. 111(1) (“The term ‘categorical exclusion’ means a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 102(2)(C).”). WUWC members have an interest in the maintenance and updating of categorical exclusions in a defensible manner. For example, some WUWC members would benefit from a categorical exclusion that addresses the execution of a Warren Act agreement to facilitate short-term water transfer.

permitting delays, including delays related to requirements for completion of applications and pre-application processes before the formal start of environmental review and authorization processes.

WUWC also asks that DOI propose new rules that implement CEQ's Permitting Technology Action Plan (Plan) through their NEPA regulations, making implementation of the key capabilities actionable through agency programming and budget processes. Under the April 15, 2025 Presidential Memorandum, *Updating Permitting Technology for the 21st Century*, agencies are required to develop implementation plans by August 28, 2025, laying out actionable steps to achieve the ten key capabilities highlighted within the Plan. The Plan outlines a strategic framework to enhance the efficiency and transparency of federal environmental permitting processes through the integration of advanced technology.¹⁴ The plan emphasizes the importance of modernizing data management systems, fostering interagency collaboration, and leveraging digital tools to streamline project reviews. The Plan highlights ten key capabilities that agencies should develop and implement to accelerate NEPA innovation and permitting technology, identifying actions such as improving data accessibility, standardizing processes across agencies, and utilizing geospatial tools to better analyze environmental impacts. These measures aim to reduce delays, improve decision-making, and ensure compliance with NEPA while supporting economic development. Importantly, the Plan underscores the need for public engagement and transparency by making permitting data more accessible to stakeholders and the public.

C. Accountability through transparency is essential to an effective environmental review process involving cooperating agencies, applicants, and the affected public.

The interim final rule, through the DOI Handbook, makes public involvement discretionary, after a Notice of Intent that may not include information on the proposed action, alternatives under consideration, and reasonably foreseeable effects as previously required by the 2020 CEQ regulations on scoping.¹⁵ The decision whether to publish an EIS or EA in draft is left to the discretion of any responsible official. However, procedures requiring public review of draft documents serve the administration's goal to expedite and streamline permitting by requiring that opponents notify the agencies of their concerns before engaging in litigation.¹⁶ This important aspect of good NEPA practice is essential to the efficient and effective performance of each agency and should not be left to the discretion of individual responsible officials. WUWC appreciates provisions for greater accountability on the review of applications and initial scoping.¹⁷ However,

¹⁴ CEQ, Permitting Technology Action Plan, (May 30, 2025), https://permitting.innovation.gov/CEQ_Permitting_Technology_Action_Plan.pdf

¹⁵ 40 C.F.R. § 1501.9 (2020).

¹⁶ 40 C.F.R. § 1503.3 (2020); CEQ Final Rule, 85 Fed. Reg. at 43333 (citing *Pub. Citizen*, 541 U.S. at 764; *Vt. Yankee Nucl. Power Corp.*, 435 U.S. 519, 553 (1978) (while “NEPA places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action, it is still incumbent upon [parties] who wish to participate to structure their participation so that it is meaningful, so that it alerts the agency to the [parties’] position”).

¹⁷ DOI's Handbook provides for a 60-day initial review of an application or written proposal for agency action, with an opportunity for the bureau to request any additional information that it needs to initiate the NEPA process. However, this provision only requires documentation – not public disclosure of applications and agency workload.

environmental review and consultation requirements work through public verification of agency evaluation of a proposed action's scope, effects, and alternatives.¹⁸

Efficient, effective public involvement should be based on a proven platform for tracking the environmental review and authorization of major infrastructure projects. The Permitting Council leads government-wide efforts to improve the transparency, predictability, and outcomes of the federal environmental review and authorization process for qualifying infrastructure projects. Permitting Council members and their respective agencies implement and oversee adherence to the statutory requirements set forth in FAST-41. FAST-41 coverage entitles project sponsors to coordinated Federal agency action on their projects, including developing and implementing comprehensive permitting timetables, coordinated public and tribal outreach strategies, meaningful project sponsor engagement, identification and implementation of best practices, dispute resolution, and posting and maintaining transparent, publicly accessible permitting timetables on the Federal Permitting Dashboard. Covered projects receive these benefits without modifying or undermining any underlying federal statutes or regulations, or the status of any mandatory reviews.

Environmental collaboration and conflict resolution processes avoid and minimize litigation risk for infrastructure projects.¹⁹ These processes foster early and meaningful stakeholder engagement, improve the quality of decision-making, and help identify and address potential issues before they escalate into legal disputes. By involving affected communities, project proponents, and other stakeholders in open dialogue, agencies can clarify misunderstandings, build trust, and incorporate stakeholder perspectives into project planning and environmental analysis. Ultimately, by demonstrating a good-faith effort to consider and respond to stakeholder input, agencies strengthen the legal defensibility of their NEPA decisions and promote efficient project implementation.

To create a more transparent environmental review and infrastructure authorization processes, we recommend:

- 1. DOI should enhance accountability for the efficiency of their infrastructure permitting processes by tracking all “covered” infrastructure projects on the Permitting Dashboard.**

Tracking all “covered” infrastructure projects on the Permitting Dashboard enhances agency accountability,²⁰ as it would provide a transparent, centralized platform for monitoring project

¹⁸ Stava, A. et al., *Quantifying the substantive influence of public comment on United States federal environmental decisions under NEPA*, ENVIRON. RES. LETT. 20 074028, (June 10, 2025), DOI 10.1088/1748-9326/addee5.

Ultimately, stakeholder engagement under NEPA meaningfully shapes federal decisions, helping agencies achieve better and more sustainable outcomes. In a recent peer-reviewed study reviewing 108 environmental impact statements over 22 years, public comments led to substantive changes in 62% of cases, including modifications to alternatives, mitigation, or selection of a new preferred alternative.

¹⁹ Environmental Collaboration and Conflict Resolution (ECCR): Enhancing Agency Efficiency and Making Government Accountable to the People (2 May 2018), https://ceq.doe.gov/docs/nepa-practice/ECCR_Benefits_Recommendations_Report_%2005-02-018.pdf; <https://ceq.doe.gov/nepa-practice/environmental-collaboration-and-conflict-resolution.html>

²⁰ The term “covered project” is defined as, *inter alia*, (I) subject to NEPA; (II) is likely to require a total investment of more than \$200,000,000; and (III) does not qualify for abbreviated authorization or environmental review processes under any applicable law. 42 U.S.C. § 4370m(6).

progress, identifying bottlenecks, and facilitating interagency coordination. By requiring agencies to update and maintain accurate information on the Dashboard as part of their NEPA procedures, stakeholders could readily assess whether agencies are meeting statutory deadlines. This visibility would promote timely and efficient permitting decisions, deter unnecessary delays, foster trust and transparency in the permitting process, and support the broader goal of advancing critical infrastructure projects.

2. DOI should be transparent on the status of all environmental review and authorization requirements, including identification of permitting milestones, pending decisions, and information needed to complete pending decisions.

DOI should use the full capability of the Permitting Dashboard and increase transparency on the status of all environmental review and authorization requirements. For example, agencies should clearly identify permitting milestones, pending decisions, and the information needed to complete decision-making. These data points are critical for effective project management and transparency, as agencies create a clear timeline that enables all stakeholders to effectively participate. Listing information on the Dashboard about pending decisions further enhances transparency by highlighting where agency action is required and allowing for early identification of potential delays or conflict. Ultimately, comprehensive tracking of milestones and decisions helps ensure that infrastructure projects proceed efficiently, while maintaining public confidence in the integrity and responsiveness of the federal permitting process.

3. DOI should develop NEPA regulations using the notice and comment procedures of the APA.

The interim final rule takes the position that notice-and-comment procedures may not be required by law because the action of amending the NEPA implementation rules and handbook could fall within the APA exception for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.” 5 U.S.C. § 553(b)(A). Agency-specific NEPA procedures need to prescribe the form and manner of public participation, and provide for scoping, public outreach and engagement, and solicitation and response to public comments. Given the importance of public involvement in alternatives analysis, mitigation decisions, and the benefits in daylighting issues as the process is being developed, this period of changing standards carries a high risk of environmental conflict and litigation. Agency NEPA procedures should be revised and published in draft to provide for public notice and an opportunity to comment, in accordance with the Administrative Procedure Act (APA). Allowing for public participation in the development of NEPA procedures would ultimately reduce litigation risk and be consistent with the President’s stated goals to expedite project approvals and simplify NEPA.²¹

Ultimately, the key question for whether public comment should be provided is not whether NEPA procedures impose a liability or burden on the public, but whether they “substantially affect” the public.²² When rules having a substantial impact are promulgated, the interested public should

²¹ See 90 Fed. Reg. 8353, 8355.

²² *Pickus v. U.S. Bd. of Parole*, 507 F.2d 1107, 1112 (D.C. Cir. 1974); see also *Elec. Priv. Info. Ctr. (EPIC) v. U.S. Dep’t of Homeland Sec.*, 653 F.3d 1, 6 (D.C. Cir. 2011) (finding that new TSA policies that use advanced imaging technology to screen airline passengers do not impose a substantive obligation on passengers, but “substantively

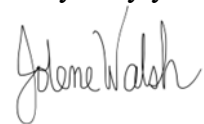
have an opportunity to participate, consistent with the APA, and the agency should be fully informed. CEQ's NEPA regulations prescribed the process of scoping, public outreach and engagement, solicitation of comments, and agency responses to comments on proposed actions.²³ The public is substantially affected by NEPA procedures that maintain the public opportunities to participate in agency decisions that may have a significant effect on their environment. Now that CEQ has rescinded its NEPA regulations, agency-specific NEPA procedures should prescribe the form and manner of public participation, and provide for scoping, public outreach and engagement, and solicitation and response to public comments. In doing so, an agency is not merely interpreting NEPA's meaning but will be issuing "self-imposed controls" over the "manner and circumstances in which the agency will exercise its plenary power."²⁴ This is sufficient to trigger public notice and comment under the APA.²⁵

Conclusion

President Trump's executive order on "Unleashing American Energy" affects all major federal actions affecting the environment, including infrastructure, land management, and regulations relevant to WUWC projects. Section 5 of the order, "Unleashing Energy Dominance through Efficient Permitting," directs agencies to streamline NEPA review, use emergency authorities, and "work closely with project sponsors to expedite permitting for projects vital to the economy or national security." WUWC supports science-based, effective regulations that support environmental protection while meeting the West's water and energy needs. Federal agencies should engage with water utilities to support practical adaptation strategies. WUWC stands ready to offer expertise to improve NEPA's efficiency and impact.

Thank you for the opportunity to provide these comments. If you have any questions regarding these comments, please contact me at (951) 203-2804 or Walshj@emwd.org.

Very truly yours,



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affect[] the public to a degree sufficient to implicate the policy interests animating notice-and-comment rulemaking.") (citing *Pickus*).

²³ 40 C.F.R. § 1507.3 (2020).

²⁴ See *Pickus*, 507 F.2d at 1113; *EPIC*, 653 F.3d at 6.

²⁵ *Id.*; 5 U.S.C. § 553.