### Aff Answers To EIS

### Normal Means

#### Environmental assessment is required for all projects

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Jennifer, “How Does Participation in the Framing, Review, and Incorporation of Scientific Information Affect Stakeholder Perspectives on Resource Management Decisions?,” http://web.mit.edu/dusp/epp/music/pdf/jpeyser.thesis.FINAL.pdf

The National Environmental Policy Act (NEPA), passed in 1969, requires all federal agencies to assess the environmental impacts of major projects or decisions, the expenditure of federal money, or other actions that affect federal lands; to consider environmental impacts in making decisions; and disclose to these impacts to the public. NEPA regulations, published first as guidelines and then formally promulgated by the Council of Environmental Quality (CEQ) in 1978, helped clarify NEPA procedures. These regulations provided minimum requirements for involving the public in NEPA-affected decisions. Beyond simply disclosure, NEPA now opens decision-making to public scrutiny and comment at a number of stages. “The public” can include any individual or group outside the federal government, including citizens, nongovernmental organizations (NGOs), business and industry, academics and state, local, and tribal governments.

### Cancellation

#### High risk of no solvency – project will be cancelled

Conrad and Sarwal 6 (Memebers of the chamber of commerce. Full Date: December 2006. Accessed: 7/12/12. http://www.scotusblog.com/movabletype/archives/06-466Chamber.pdf)

NEPA’s requirements are essentially procedural: An agency must take a “hard look” at potentially significant environmental effects of its proposed actions, but the Act does not purport to control the agency’s ultimate choices. See, e.g., Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 558 (1978). That procedural mandate has served an important role in correcting a situation in which agencies did not take sufficient account of environmental concerns. Over time, however, both NEPA’s procedural requirements and, in particular, litigation challenging the adequacy of an agency’s NEPA compliance have also become “notorious for special interest abuse.” Frank B. Cross, The Judiciary and Public Choice, 50 Hastings L. J. 355, 375 (1999). An expansive judicial view of NEPA’s requirements, which first shapes action at the administrative level and then plays out in follow-on litigation, can introduce significant costs and delay in obtaining agency action—costs and delay that are too often the only real ends of those who use NEPA to impose them. One commentator describes the phenomenon as follows: Delay buys time, which opponents can use to build popular and political opposition to the project. New information may develop, partially through the dis-closures of the NEPA statement. Inflationary pressures, and other costs, could economically doom the project during the delay. NEPA thereby became an important means to the end: stopping the project. Denis Binder, NEPA, NIMBYs and New Technology, 25 Land and Water Law Review 11, 17 (1990). See also, e.g., James Dao, Environmental Groups to File Suit over Missile Defense, N.Y. Times, Aug. 28, 2001, at A10 (reporting plaintiff’s statement that “the hope is that [the NEPA-induced] delay will lead to cancellation…. That’s what we always hope for in these suits**.**”); Daniel Ackman, Highway to Nowhere: NEPA, Environmental Review and the Westway Case, 21 Colum. L.J. & Soc. Probs. 325 (1988). In other words, NEPA can easily become a tool of those interested in scuttling a project for any reason.

### Links to Politics

#### Links to politics – empirically unpopular

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Robert, “The Political Assault on the National Environmental Policy Act,” http://www.law.georgetown.edu/gelpi/research\_archive/nepa/NEPAUnderSiegeFinal.pdf

NEPA is justly regarded as the foundation for U.S. environmental protections. In addition to establishing our nation’s basic commitment to a policy of environmental protection, NEPA creates a framework for informed and responsive government decision-making based on extensive public input. The assault on the Act that is taking place on Capitol Hill and within some federal agencies threatens to destroy this basic environmental framework. After 35 years, it is worthwhile to consider how NEPA should be improved. Thoughtful improvements in agency practices and renewed commitments of federal resources can make the Act more effective. The goal should be to improve and strengthen this bedrock environmental law, not to undermine and weaken it

### Delays

#### The review process could take years

Dill 5 – PhD in Urban Studies

Jennifer, “What Influences the Length of Time to Complete NEPA Reviews? An Examination of Highway Projects in Oregon and the Potential for Streamlining,” http://dot.alaska.gov/stwddes/desenviron/assets/pdf/resources/nepareviewtime.pdf

How long does the environmental review process take? The Louis Berger Group sampled 100 EISs from the 1970s, 1980s, and 1990s, to help FHWA obtain a baseline for measuring performance (2). They estimated the length of time taken to complete the NEPA process based on the information in the EIS. The end date was the date on the final EIS. The start date varied. In Phase II of the project, the Louis Berger Group collected data on 244 projects from 1995 to 2001 and calculated the length of the NEPA process using the Notice of Intent (NOI) as the start date and the Record of Decision (ROD) as the end date. In addition, for the past five years, FHWA has tracked the length of time to complete the NEPA process, also using the NOI and ROD dates (7). The data from these three sources is shown in FIGURE 1. The two studies by the Louis Berger Group noted that the time to complete NEPA was not normally distributed, and that a handful of very lengthy projects often skewed the data. In such cases, the median may be a better indication of central tendency. For example, the median time to complete NEPA for the projects from the 1970s through 1990s was 3.0 years, compared to a mean of 3.6 years for all three decades. FIGURE 2 shows the medians from the same three data sources. In addition, in 1994 the General Accounting Office (GAO) reviewed 76 projects with EISs completed between 1988 and 1993 (5). The average time from NOI to ROD was about 4.5 years. This figure is consistent with the Berger Group data. At the request of the American Association of State Highway and Transportation Officials (AASHTO), in 2003 TransTech Management, Inc. surveyed 31 state departments of transportation about their most recent final EIS document (8). They found a median time taken from NOI to ROD of 3.7 years, ranging from just over two years to almost 12 years. The difference from the FHWA/Berger Group data was not explained

#### Takes a year or longer

Geneslaw 95

Gene. “CLEANUP OF NATIONAL PRIORITIES LIST SITES, FUNCTIONAL EQUIVALENCE, AND THE NEPA ENVIRONMENTAL IMPACT STATEMENT,” Journal of Land Use and Environmental Law, http://www.law.fsu.edu/journals/landuse/vol101/geneslaw.html

The National Environmental Policy Act of 1969 (NEPA)[1] was enacted by Congress to establish a framework for environmental review of actions carried out by the federal government.[2] NEPA imposes certain responsibilities on the federal government including an obligation to assure a safe and healthful environment free from degradation and to achieve a wide range of beneficial uses without risk to health or safety.[3] NEPA mandates that all agencies of the federal government prepare an environmental impact statement (EIS) when they undertake or fund "major Federal actions significantly affecting the quality of the human environment."[4] At the time NEPA was enacted, the Environmental Protection Agency (EPA) did not yet exist.[5] NEPA's reach extended to all agencies of the federal government,[6] including those which were ultimately consolidated into what is now EPA.[7] No blanket exemption was granted in NEPA to EPA's predecessor agencies.[8] Following the creation of EPA in 1970, there has been continuing uncertainty with respect to whether EPA must prepare an EIS when it proposes or undertakes a major action significantly affecting the quality of the human environment. In the last two decades, the federal courts have created a doctrine of functional equivalence which permits EPA to bypass NEPA's environmental impact process, provided that its consideration of a proposed action is responsive to the policies underlying NEPA. Congress has also expressly exempted EPA from compliance with NEPA in several environmental statutes that themselves contemplate a review process much like that mandated by NEPA. Where emergency circumstances exist, the EIS requirement may be waived. The question remains, however, whether Congress in fact intended for EPA to be exempt from NEPA's requirements and whether functional equivalence adequately addresses the policies that underlie NEPA. Functional equivalence has not yet been applied to EPA's cleanup of hazardous waste sites under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA),[9] or "Superfund." Enacted in 1980, CERCLA authorizes and provides funding for cleaning up abandoned hazardous waste sites from which (a) a release of hazardous waste into the environment is threatened, or (b) a release of hazardous waste into the environment has occurred or is occurring.[10] Sites which pose an imminent threat or which require prompt cleanup are accorded priority by placement on the National Priorities List (NPL). Since preparation of an EIS in accordance with NEPA may take a year or longer, there is a continuing concern that rather than protecting the environment, preparation of an EIS in compliance with NEPA could actually result in substantial injury through hazardous substance release.

### Uncertainty

#### EIS leads to uncertainty

FAO 95

“Chapter 3: EIA process,” “Environmental impact assessment of irrigation and drainage projects,” http://www.fao.org/docrep/V8350E/v8350e00.htm#Contents

An EIA involves prediction and thus uncertainty is an integral part. There are two types of uncertainty associated with environmental impact assessments: that associated with the process and, that associated with predictions. With the former the uncertainty is whether the most important impacts have been identified or whether recommendations will be acted upon or ignored. For the latter the uncertainty is in the accuracy of the findings. The main types of uncertainty and the ways in which they can be minimized are discussed by de Jongh in Wathern (1988). They can be summarized as follows: • uncertainty of prediction: this is important at the data collection stage and the final certainty will only be resolved once implementation commences. Research can reduce the uncertainty; • uncertainty of values: this reflects the approach taken in the EIA process. Final certainty will be determined at the time decisions are made. Improved communications and extensive negotiations should reduce this uncertainty; • uncertainty of related decision: this affects the decision making element of the EIA process and final certainty will be determined by post evaluation. Improved coordination will reduce uncertainty.

#### Big risk of uncertainty – affects politics links

Beder 90 – Professor of Social Sciences

Sharon, “Environmental Impact Statements: The Ethical Dilemma for Engineers,” http://herinst.org/sbeder/engineers/dilemma.html

Naturally, they will want that document to emphasise the advantages of the project to the community and to downplay the disadvantages. To a large extent that environmental impact statement becomes a sales document for the project. Any expression of possible adverse environmental effect or even any mention of uncertainty will certainly be grabbed by opponents of the project, magnified and used against them.