

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<http://oversight.house.gov>

April 3, 2020

The Honorable Mary B. Neumayr
Chairwoman
Council on Environmental Quality
730 Jackson Place, N.W.
Washington, D.C. 20506

Dear Chairwoman Neumayr:

The Subcommittee is requesting information and documents regarding the fossil fuel industry's role in the development of your recent proposal to effectively eliminate the consideration of climate change when assessing the environmental impacts of major infrastructure projects.

The National Environmental Policy Act (NEPA) is the nation's first major environmental statute, and it requires an assessment of environmental impacts of proposed major federal actions.¹ The assessment must include consideration of individual and cumulative environmental impacts of the project.² NEPA allows for the consideration of indirect impacts, including climate impacts, and also allows for public input.³

The Council on Environmental Quality (CEQ) is responsible for overseeing the implementation of NEPA across federal agencies, which is largely completed through the issuance of regulations "interpreting NEPA's procedural requirements."⁴

In January 2020, CEQ issued a Notice of Proposed Rulemaking that proposed several amendments to the regulations that serve as the procedural vehicles for implementing NEPA.⁵

¹ 42 U.S.C. §§4321-4370h.

² *The Benefits of NEPA: How Environmental Review Empowers Communities and Produces Better Projects*, Center for American Progress (Jan. 16, 2018) (online at www.americanprogress.org/issues/green/reports/2018/01/16/444899/benefits-nepa-environmental-review-empowers-communities-produces-better-projects/).

³ Council on Environmental Quality, Executive Office of the President, *Considering Cumulative Effects Under the National Environmental Policy Act* (Jan. 1997) (online at www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-ConsidCumulEffects.pdf).

⁴ The White House, *Council on Environmental Quality* (online at www.whitehouse.gov/ceq/) (accessed on Mar. 4, 2020).

⁵ Federal Register, *Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act* (Jan. 10, 2020) (online at www.federalregister.gov/documents/2020/01/10/2019-

These proposed amendments, if finalized, would severely limit the effectiveness of NEPA by limiting the projects it covers, reducing the extent to which agencies must consider reasonable alternatives, and eliminating the requirement that federal agencies consider indirect and cumulative benefits.⁶ These proposed changes to NEPA have been criticized for lessening community input and eliminating the consideration of climate change.⁷

Since 2017, British Petroleum (BP) and the American Petroleum Institute (API) have lobbied the Trump Administration to weaken NEPA. These lobbying efforts included a June 2018 meeting at the White House with representatives from BP, API, ExxonMobil, Royal Dutch Shell, Chevron Corporation, the Phillips 66 Company, and several CEQ representatives.⁸ Although the public is aware of the attendees of the meeting, the substance of what was discussed remains shrouded in secrecy.

In August 2018, API and other organizations sent a letter to CEQ, writing:

40 C.F.R. § 1508.8 should be revised to limit “direct” effects to those proximately connected to a project, and to clarify that “indirect” effects are necessarily limited and generally equivalent to “connected projects” in 40 C.F.R. § 1508.25(a)(1) (e.g. roads, construction, and other activities closely related to a project).⁹

The Subcommittee is concerned that the fossil fuel industry has had outsized influence over CEQ that resulted in this proposed rulemaking. If this proposed rule is finalized, it will cause serious harm to our environment and accelerate the impacts of climate change.

The Subcommittee is also concerned that a key decisionmaker at CEQ may have serious conflicts of interest. CEQ’s general counsel, Viktoria Seale, is married to John Seale, the Director of Federal Affairs at the American Chemistry Council (ACC). For the last quarter in 2019, ACC stated on its lobbying disclosure form that the organization lobbied CEQ regarding NEPA. Although ACC and CEQ have denied that Mr. Seale has lobbied CEQ on any issue, and CEQ has stated Ms. Seale has limited her involvement on certain matters based on her husband’s

28106/update-to-the-regulations-implementing-the-procedural-provisions-of-the-national-environmental).

⁶ *Id.*; see also *Proposed NEPA Rule Changes*, Natural Resources Defense Council (Mar. 9, 2020) (online at www.nrdc.org/experts/sharon-buccino/proposed-nepa-rule-changes).

⁷ *Trump Wants to Gut Crucial Environmental Regulation*, The Nation (Mar. 2, 2020) (online at www.thenation.com/article/environment/national-environmental-policy-act-nepa/).

⁸ *BP Has Lobbied Extensively to Roll Back US Environmental Regulations*, Unearthed (Jan. 23, 2020) (online at <https://unearthed.greenpeace.org/2020/01/23/bp-lobbied-trump-climate-change-oil/>); see also Office of Information and Regulatory Affairs, *Meeting on Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* (June 8, 2018) (online at www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=0331-AA03&meetingId=3317&acronym=0331-CEQ).

⁹ Letter from Howard J. Feldman, American Petroleum Institute, V. Bruce Thompson, American Exploration and Production Council, Andrew J. Black, Association of Oil Pipe Lines, and Tripp Parks, Western Energy Alliance, to Council on Environmental Quality (Aug. 20, 2018) (online at www.documentcloud.org/documents/6664714-API-Et-Al-CEQ-NEPA-Comments-8-20-18-Final-W.html).

employment, CEQ could not provide documentation of a written recusal from Ms. Seale when requested by other organizations.¹⁰

In addition, in 2017, Ms. Seale was granted a waiver “so she could participate in issues before CEQ that affect energy holdings in her spouse's family trust.”¹¹ The trust holds eight energy stocks: General Electric, Amtos Energy Corporation, Enterprise Products Partners LP, Exxon Mobile Corp., Genesis Energy LP, Kinder Morgan Inc., Plains All American Pipeline LP and 3M Company.

For these reasons, the Subcommittee requests the following documents and information by April 17, 2020, for the time period from 2017 to the present:

1. All documents and communications between CEQ and BP, Exxon Mobil Corp., Royal Dutch Shell, Chevron Corporation, the Phillip 66 Company concerning NEPA;
2. Minutes or other documents regarding the June 2018 White House meeting;
3. All documents and communications concerning NEPA between CEQ and any trade organization, including API and ACC;
4. A copy of Viktoria Seale’s recusal documents; and
5. A copy of Viktoria Seale’s calendars.

The Subcommittee also requests a briefing on these issues from CEQ staff by April 17, 2020.

The Committee on Oversight and Reform is the principle oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions, please call Committee staff at (202) 225–5051.

Sincerely,



Harley Rouda
Chairman
Subcommittee on Environment

¹⁰ *Lobbying Report, American Chemistry Council*, Clerk of the House of Representatives (Jan. 21, 2020) (online at <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=DB40AA34-A67C-4EA6-9B31-97440DAC47D6&filingTypeID=78>); see also *Environment Regulator’s Husband Listed as Lobbying Her Agency*, Bloomberg Environment (Feb. 27, 2020) (online at <https://news.bloombergenvironment.com/environment-and-energy/environment-regulators-husband-listed-as-lobbying-her-agency>).

¹¹ *Seale Was Granted A Waiver in 2017 Allowing Her to Participate in Decision Which Affected Energy Stocks in a Family-Owned Trust*, E&E News (Dec. 14, 2017) (online at www.eenews.net/stories/1060069051).

The Honorable Mary B. Neumayr
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Enclosure

cc: The Honorable James Comer, Ranking Member

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.