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STATE OF NEVADA
Sagebrush Ecosystem Program

March 12, 2025

Megan Healy
Principal Deputy Director for NEPA
202-395-5750
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503
Megan.E.Healy@ceq.eop.gov

Re: Council on Environmental Quality (CEQ) Removal of National Environmental Policy Act
Implementing Regulations CEQ-2025-0002

Ms. Healy;

The Nevada Department of Conservation and Natural Resources, Sagebrush Ecosystem Program (NV SEP) appreciates the opportunity to review and provide comments on the proposed CEQ Removal of National Environmental Policy Act (NEPA) Implementing Regulations, in response to Executive Order 14154: *Unleashing American Energy*.

The NV SEP and Nevada Department of Wildlife (NDOW) have a standing Memorandum of Understanding (MOU) with the Nevada and California Bureau of Land Management (BLM) and U.S. Department of Agriculture (USDA) Forest Service Intermountain Region (USFS). Through these MOUs, the BLM's Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA) (2015), Compensatory Mitigation policy (Instruction Memorandum 2019-018), and the USFS's Greater Sage- Grouse Proposed Land Management Plan Amendments (LMPA) and Final Environmental Impact Statement (FEIS) for the Intermountain and Rocky Mountain Regions (2019), require the agencies to include mitigation measures mandated by state plans, programs, or authorizations in all action alternatives analyzed in NEPA documents.

The State of Nevada, through NAC 232.400-480 and Executive Order 2018-032, mandates compliance with the Nevada Sage-Grouse Conservation Plan (2018), and the use of the Nevada Conservation Credit System (CCS)/Habitat Quantification Tool (HQT) to quantify direct and indirect impacts to Greater Sage-Grouse and their habitat from anthropogenic disturbances to determine mitigation needs.

The NV SEP respectfully offers the following comments, highlighting areas where clarity and consistency could help maintain effective state-federal coordination, particularly if CEQ moves forward with the current proposal.

Inconsistencies across Federal Agencies

The Nevada Sagebrush Ecosystem Program (NV SEP) understands that this interim final rule is intended to provide greater flexibility for individual federal agencies in their interpretation and implementation of NEPA.

However, the removal of CEQ's authority to implement NEPA regulations could introduce inconsistencies in how environmental reviews are conducted. Preserving a baseline of procedural consistency across agencies could help uphold the shared goals of environmental accountability, efficient project reviews, and legal certainty for stakeholders.

The CEQ's responsibility in implementing NEPA regulations provide a standardized framework that ensures agencies follow uniform procedures when assessing environmental impacts. Without these overarching regulations, each agency could develop its own interpretation of NEPA requirements, leading to variations in how Environmental Impact Statements (EIS) and Environmental Assessments (EA) are prepared, reviewed, and disclosed to the public.

This inconsistency would also extend to lower levels of NEPA analysis, such as Categorical Exclusions (CatEx) and Determinations of NEPA Adequacy (DNA). The resulting lack of uniformity would create uncertainty not only across agencies, but within agencies, among project proponents, regulators, and the public. This uncertainty could undermine the predictability that both industry and environmental stakeholders rely on for development and environmental protection. The NV SEP depends on this predictability to ensure compliance with mitigation requirements, plan conservation measure effectively, and ensure consistency between projects for our Nevada Conservation Credit System (CCS) proponents.

The NV SEP is reliant on timelines associated with NEPA guidelines for implementation of the CCS. These timelines ensure that our program is consistent with other federal agencies and processes and increases transparency and understanding for our project proponents. NV SEP project proponents are also reliant on consistent NEPA requirements for the mitigation of their impacts to Greater Sage-Grouse habitat.

Loss of NEPA Categories

The Nevada Conservation Credit System (CCS) protocols, which are integral to our program, depend on the established frameworks of the NEPA process and provide critical assurances to our proponents. Timelines and documentation requirements associated with NEPA analyses vary depending on whether an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) is conducted. The Nevada Sagebrush Ecosystem Program (NV SEP) is well-versed in guiding the proponents through these processes, ensuring that they remain compliant with CCS requirements and that projects move forward efficiently.

NV SEP recognizes that the completion of an EIS generally requires more time and resources than an EA, and as such, strategies have been developed to navigate these varying timelines effectively. This expertise allows the Program to provide meaningful support to proponents, ensuring that they are well-informed and on track throughout the process.

Moreover, the NV SEP would like to emphasize the importance of using Categorical Exclusions (CatEx) within our scope of work. CatExs are crucial for facilitating timely and effective restoration efforts on federal lands. They enable the Program to respond quickly to environmental needs while minimizing delays associated with more extensive NEPA reviews. The ability to use CatExs effectively allows our program to address urgent restoration needs, thereby enhancing ecosystem resilience and contributing positively to the management of sagebrush ecosystems.

Less rigorous NEPA requirements are more likely to be challenged in court

While reducing litigation serves to improve project certainty and timelines, reducing the rigor of NEPA requirements may lead to an increase in legal challenges. NEPA has aimed to provide a transparent process for evaluating environmental impacts, thorough public participation and scientific review. If agencies implement NEPA with fewer procedural safeguards or without clear regulatory guidance, there is a higher likelihood that project approvals will face litigation.

Increased legal challenges could contribute to project delays, ultimately hindering the very goal of efficiency that this rule seeks to achieve.

Concerns with the lack of definition for terms akin to “significant” and “major”

The proposed removal of the CEQ’s ability to implement regulations eliminates clear definitions for “significant effects” and “major federal actions” — which serve as key terms that determine the level of NEPA analysis required for a project. Under 40 CFR § 1508, these definitions require consideration of both context (regional, site-specific, and resource-based scales) and intensity (impact severity). This framework helps agencies determine whether a proposed action requires an Environmental Assessment (EA) with a Finding of No Significant Impact (FONSI) or a more comprehensive Environmental Impact Statement (EIS). The Bureau of Land Management and other agencies rely on this standard when evaluating proposed actions.

If CEQ’s ability to implement regulations is removed, interpretations of significance and major actions will vary not only between agencies but also among offices within the same agency. Such inconsistencies would undermine environmental reviews, disrupt project planning, and weaken the predictability that both industry and conservation agencies rely on.

As CEQ considers the implications of these regulatory changes, we urge continued attention to the importance of maintaining clarity, consistency, and predictability in environmental reviews. These elements are critical to safeguarding both habitat and project timelines. Should CEQ proceed with the proposed regulatory changes, the NV SEP stands ready to work closely with federal agencies to identify practical implementation strategies. We are committed to advancing restoration, mitigation, and conservation goals in ways that align with the administration’s efforts to streamline infrastructure and energy development. Enhanced communication and state-informed guidance could bridge potential gaps and ensure that NEPA remains a reliable framework for project success and environmental stewardship.

We appreciate your attention to these matters and look forward to continued collaboration with CEQ and our federal partners to safeguard Nevada’s sagebrush ecosystems while supporting development goals through effective and science-informed review processes.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen Steele', with a stylized, cursive script.

Kathleen Steele
Program Manager
Nevada Sagebrush Ecosystem Program