

August 4, 2022

United States Senate  
Washington, D.C., 20510

Dear Senator:

On behalf of the below listed 207 organizations and our millions of members and supporters, we write to you to voice our strong opposition to S.J. Res. 55, a joint resolution of disapproval under the Congressional Review Act (CRA). If passed, the resolution would undermine core provisions under the National Environmental Policy Act (NEPA) regulations that were restored by President Biden in April 2022, including requirements that agencies review actions for the impacts of climate change and cumulative impacts of federal actions.<sup>1</sup>

NEPA is a bedrock environmental and invaluable civil rights tool that requires federal agencies to conduct public outreach and analyze the public health impacts of major federal actions, including in the permitting of critical infrastructure projects. In short, the NEPA process helps ensure that critical federal infrastructure projects that go forward are well thought through and built to last with the health, safety, and input of communities fully considered. NEPA is the main safeguard for Indian Country on lands held in trust by the federal government and one of the only ways tribal governments and citizens can address projects on trust land.

In 2020, President Trump severely rolled back the White House Council on Environmental Quality's (CEQ) longstanding NEPA implementing regulations. President Trump's destabilizing overhaul of CEQ's NEPA regulations sought to entrench federal climate denial, hastily permit dangerous or polluting projects, and systematically disenfranchise low-income, rural, and minority communities from government decision-making. Other egregious changes included allowing industries to prepare their own environmental reviews and redefining the term "major federal action" to reduce the applicability of NEPA to projects like interstate pipelines. Taken together, President Trump's revised NEPA regulations were incompatible with the policies established in Section 101 of NEPA "recognizing the profound impact of man's activity on the interrelations of all components of the natural environment" and the mandate in Section 102 to implement these policies "to the fullest extent possible."<sup>2</sup>

At the direction of President Biden, CEQ subsequently embarked on a two-step process to restore the agency's long standing NEPA regulations. In April 2022, President Biden issued a "Phase 1" rulemaking restoring basic elements of CEQ's NEPA regulations, including consideration of climate change and cumulative impacts of projects on communities. CEQ is expected to release a draft of its "Phase 2" rule later this year to further improve the federal environmental review process.

President Biden's restoration of CEQ's NEPA regulations were a day one priority because they are critically important to addressing the climate crisis and environmental justice.<sup>3</sup> Without a robust NEPA, it will be virtually impossible to reach net-zero emissions by 2050 or achieve President Biden's Justice40 Initiative, a government-wide pledge to commit 40 percent of

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<sup>1</sup> "National Environmental Policy Act Implementing Regulations Revisions," White House Council on Environmental Quality, 87 FR 23453 (2022).

<sup>2</sup> 42 USC § 4321.

<sup>3</sup> See "Fact Sheet: List of Agency Actions for Review," a non-exclusive list of agency actions for review in accordance with Executive Order 13990 ("Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," 86 FR 7037).

federal investments in clean energy and climate infrastructure to disadvantaged communities. For low-income and minority communities, which are often disproportionately impacted by health problems associated with poorly planned federal projects, NEPA isn't just an environmental protection statute. It's a critical tool for civic engagement and social justice we cannot afford to lose.

A robust NEPA process is also essential to ensuring the successful implementation of the \$1.2 trillion bipartisan Infrastructure Investment and Jobs Act (IIJA). For example, as sea levels continue to rise and extreme weather events become more frequent and severe, our roads, bridges, and other infrastructure must be engineered to be more climate resilient. Without a robust NEPA, however, implementation of the bipartisan infrastructure law will fall short because it will not allow for public input or changes following environmental review that help to make critical infrastructure projects climate resilient and responsive to community needs. Returning to the illegal Trump administration NEPA rule would also lead to review delays, project uncertainty, and extensive litigation.

S.J. Res. 55 is based on the demonstrably false allegation that NEPA is a significant source of project delay. This myth has been debunked in numerous studies conducted by the Congressional Research Service (CRS). Instead, CRS found that the causes of delay were "more often tied to local/state and project-specific factors, primarily local/state agency priorities, project funding levels, local opposition to a project, project complexity, or late changes in project scope."<sup>4</sup> A 2016 report from the Department of Treasury similarly concluded that "a lack of funds is by far the most common challenge to completing" major transportation infrastructure projects.<sup>5</sup> Regarding lawsuits, the number of agency court cases challenging agency compliance with NEPA remains extremely low. A survey of legal challenges recently found that only 0.2% of all NEPA cases result in litigation, about half of which involve challenges to EISs.<sup>6 7</sup> To the extent that permitting delays do exist, they are primarily due to factors outside of the NEPA process.

In short, S.J. Res.55 represents a serious threat to the federal environmental review process and efforts to tackle climate change and environmental injustice. If passed, it would delay and delegitimize future federal actions and undermine public input in federal decision-making. We oppose S.J. Res.55 and urge all members of Congress to oppose it.

Sincerely,

350.org

7 Directions of Service

Abalone Alliance Safe Energy Clearinghouse

AFGE Local 704

Alliance for Environmental Strategies

Alliance To Halt Fermi-3

American Alpine Club

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<sup>4</sup> "The Role of the Environmental Review Process in Federally Funded Highway Projects: Background and Issues for Congress," *Congressional Research Service* (2012).

<sup>5</sup> "40 Proposed U.S. Transportation and Water Infrastructure Projects of Major Economic Significance," *U.S. Department of Treasury* (2016).

<sup>6</sup> John Ruple and Kayla Race, "Measuring the NEPA Litigation Burden: A Review of 1,499 Federal Court Cases," *50 Env'tl. Law* 479 (2020).

<sup>7</sup> "National Environmental Policy Act: Little Information Exists on NEPA Analyses," *U.S. Government Accountability Office*, GAO-14-370 (2014).

American Bird Conservancy  
American Friends Service Committee  
American Rivers  
Appalachian Mountain Club  
Association of Young Americans (AYA)  
Bark  
Bergen County Green Party  
Beyond Nuclear  
Black Millennials 4 Flint  
Bold Alliance  
Breathe Project  
C.A.N. Coalition Against Nukes  
California Communities Against Toxics  
California Native Plant Society  
California Wilderness Coalition (CalWild)  
Californians for Western Wilderness  
Cascade Forest Conservancy  
Cascadia Wildlands  
CAVU  
Center for American Progress  
Center for Biological Diversity  
Center for Environmental Health  
Chesapeake Physicians for Social Responsibility  
Citizens Awareness Network  
Citizens' Environmental Coalition  
Citizens for Alternatives to Radioactive Dumping  
Citizens' Resistance at Fermi Two (CRAFT)  
Clean Energy Action  
Clean Water Action  
Climate Hawks Vote  
CO Dem. Party - Energy & Environmental Initiative  
Coalition for a Nuclear Free Great Lakes  
Coalition to Protect New York  
CODEPINK  
Concerned Citizens for Nuclear Safety  
Conservation Colorado  
Conservation Lands Foundation  
Conservation Northwest  
COOP Ski Works  
Council on Intelligent Energy & Conservation Policy  
Dakota Resource Council  
Dallas Peace and Justice Center Nuclear Free World Committee  
Defenders of Wildlife  
Don't Waste Arizona  
Don't Waste Michigan  
Earth Action, Inc.  
Earth Care  
Earthjustice  
EarthRights International  
Earthworks

EcoFlight  
Ecological Options Network  
El Sendero BC Ski and Snowshoe Club  
Empower Our Future  
Endangered Species Coalition  
Energía Mía  
Environmental Defense Fund  
Environmental Justice Clinic at Vermont Law School  
Environmental Law & Policy Center  
Environmental Protection Information Center - EPIC  
Environmental Working Group  
Extinction Rebellion San Francisco Bay Area  
Food & Water Watch  
Fort Berthold Protectors of Water and Earth Rights  
Fox Valley Citizens for Peace & Justice  
FracTracker Alliance  
Friends of Bell Meadow  
Friends of Plumas Wilderness  
Friends of the Bitterroot  
Friends of the Earth  
Friends of the Inyo  
Georgia WAND Education Fund Inc.  
GreenLatinos  
High Country Conservation Advocates  
Hispanic Access Foundation  
Hispanic Federation  
Honor Our Pueblo Existence (HOPE)  
Climate Reality Project  
Idaho Conservation League  
IDARE LLC  
Indigenous Environmental Network  
Information Network for Responsible Mining  
International Marine Mammal Project of Earth Island Institute  
Intheshadowofthewolf  
Irving Impact  
John Muir Project of Earth Island Institute  
Kentucky Heartwood  
Lassen Forest Preservation Group  
League of Conservation Voters  
Locust Point Community Garden  
Los Alamos Study Group  
Middle Park Colorado Great Old Broads for Wilderness  
Mid-Missouri Peaceworks  
Milwaukee Riverkeeper  
MiveOn.org Hoboken  
Monterey Bay Aquarium  
Multicultural Alliance for a Safe Environment  
Naeva  
National Audubon Society  
National Nuclear Workers for Justice (NNWJ)

National Parks Conservation Association  
National Trust for Historic Preservation  
National Wildlife Federation  
Native Community Action Council  
Natural Resources Defense Council  
Natural Resources Law  
Nevada Nuclear Waste Task Force  
New England Coalition On Nuclear Pollution Inc  
New Hampshire Audubon  
New Mexico Environmental Law Center  
New Mexico Sportsmen  
New Mexico Wild  
North American Climate, Conservation and Environment (NACCE)  
Northern Michigan Environmental Action Council (NMEAC)  
Nuclear Energy Information Service (NEIS)  
Nuclear Watch New Mexico  
Nukewatch  
Occupy Bergen County  
Ocean Conservancy  
Ocean Conservation Research  
Ocean Defense Initiative  
Oceana  
Ohio Environmental Council  
Ohio Nuclear Free Network  
Oxfam America  
Partnership for Policy Integrity  
Pendergraft Outfitters  
People for a Healthy Environment  
People Over Pipelines  
Physicians for Social Responsibility Pennsylvania  
Port Hope Community Health Concerns Committee, Port Hope, ON  
Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS)  
Powder River Basin Resource Council  
Project Eleven Hundred  
Protect All Children's Environment  
Quiet Use Coalition  
Radiation Truth  
Reconstructionist Rabbinical Association  
Redwood Alliance  
Revolving Door Project  
Rio Grande Indivisible, New Mexico  
Rocky Mountain Wild  
Safe Energy Rights Group (SEnRG)  
San Francisco Bay Physicians for Social Responsibility  
San Juan Citizens Alliance  
San Luis Obispo Mothers for Peace  
San Luis Valley Ecosystem Council  
Santa Fe Forest Coalition  
Seven Circles Foundation  
Sheep Mountain Alliance

Sierra Club  
Sierra Forest Legacy  
Sierra Nevada Alliance  
Sisters of Mercy of the Americas Justice Team  
Sisters of the Incarnate Word & Blessed Sacrament  
Snowlands Network  
SoCal 350 Climate Action  
Soda Mountain Wilderness Council  
South Asian Fund For Education Scholarship and Training Inc  
Southern Environmental Law Center  
Southern Utah Wilderness Alliance  
Sovereign Iñupiat for a Living Arctic  
Stand Up/Save Lives Campaign  
Standing Trees  
Sunflower Allliance  
Sustainable Obtainable Solutions  
Terra Advocati  
Tewa Women United  
The Fire Restoration Group  
The Peace Farm  
The Quantum Institute  
The Wilderness Society  
Toledo Coalition for Safe Energy  
Tri-Valley CAREs (Communities Against a Radioactive Environment)  
Turtle Island Restoration Network  
Umpqua Natural Leadership Science Hub  
Umpqua Watershed Inc  
Unitarian Universalists for a Just Economic Community  
Unitarian Universalists for Social Justice  
Unite North Metro Denver  
Uranium Watch  
Vermonters for a Clean Environment  
Virginia Interfaith Power & Light  
Waste Not Alliance  
Waterkeeper Alliance  
Waterway Advocates  
WE ACT for Environmental Justice  
Western Environmental Law Center  
Western North Carolina Climate Action Coalition  
Western Organization of Resource Councils  
Western Watersheds Project  
Wild Montana  
WildEarth Guardians  
Wilderness Workshop  
Wildlands Network  
Winter Wildlands Alliance  
Women's International League for Peace and Freedom, US/Earth Democracy Committee  
Wyoming Wilderness Association  
Yaak Valley Forest Council  
YUCCA Youth United for Climate Crisis Action