

August 1, 2022

United States Senate
Washington, D.C., 20510

Dear Senator:

On behalf of the below listed 200 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.¹

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."²

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.³ 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

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

² 42 USC § 4321.

³ 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."⁴ 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.⁵ 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.⁶ ⁷ 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

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

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

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

⁷ "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)
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
Climate Reality Project
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)
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
Mid-Missouri Peaceworks
Middle Park Colorado Great Old Broads for Wilderness
Milwaukee Riverkeeper
MiveOn.org Hoboken
Monterey Bay Aquarium
Multicultural Alliance for a Safe Environment
Naeva
National Audubon Society
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
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 Over Pipelines
Physicians for Social Responsibility Pennsylvania
Port Hope Community Health Concerns Committee, Port Hope, ON
Powder River Basin Resource Council
Project Eleven Hundred
Protect All Children's Environment
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 Inupiat for a Living Arctic
Stand Up/Save Lives Campaign
Standing Trees
Sunflower Alliance
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
Wyoming Wilderness Association
Yaak Valley Forest Council
YUCCA Youth United for Climate Crisis Action