January 26, 2018

Tony Tooke  
Chief, U.S. Forest Service  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C.  20250

Dear Chief Tooke:

Western Governors submit the following comments on the proposal of the U.S. Forest Service (USFS) to revise its National Environmental Policy Act (NEPA) procedures (83 FR 302, January 3, 2018) (Proposal). We appreciate this effort of USFS and look forward to working with you to improve the efficiency of environmental analysis.

Western Governors are all too familiar with the issues cited in the Proposal: budget and staff shortfalls; the need for restoration to address wildfire, insects, and disease; and permitting backlogs. As noted in WGA Policy Resolution 2017-10, National Forest and Rangeland Management, project planning and implementation processes have become so time consuming and expensive for National Forests that managers are often dis-incentivized to take management actions that would fulfill ecological, social and economic objectives.

The Western Governors’ Association (WGA) National Forest and Rangeland Management Initiative has demonstrated the potential for states and federal partners to work together and overcome these challenges to western forest and rangeland management. We hope that this collaboration will continue as USFS reviews its NEPA procedures and that the agency engages in meaningful and substantive consultation with Governors, as co-regulators and partners, throughout this process. This letter continues the conversation by providing regulatory and policy recommendations that will improve USFS’s NEPA process.

**Western Governors’ Recommendations for Improving the Forest Service’s NEPA Process**

USFS’s review must build upon NEPA’s statutory and regulatory requirements. NEPA declares it federal policy to use all practicable means, in cooperation with state and local governments, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations (See 42 U.S.C. §4331). Council on Environmental Quality (CEQ) regulations require federal agencies to cooperate with state agencies to the fullest extent possible to reduce duplication. This includes incorporating nonconflicting state requirements so that one document complies with all applicable laws and addressing and reconciling any inconsistencies in an Environmental Impact Statement (EIS) with any state or local plan or law (See 40 CFR §1506.2).
Western Governors’ recommendations are based on the premise that federal agencies must cooperate with states when implementing NEPA. For additional background regarding the Governors’ policy on state-federal consultation and federal and state land-use planning generally, we refer you to WGA Policy Resolution 2017-01, Building a Stronger State-Federal Relationship. The Governors’ recommendations for improving the state-federal relationship specifically in the NEPA context, which are described below, are contained in the following WGA documents:

- **WGA National Forest and Rangeland Management Initiative June 2017 Special Report**;
- **Letter: Regulatory Reform Recommendations**;
- **Letter: Recommendations for the Council on Environmental Quality**; and
- **Letter: Western Governors Recommend Improvements to BLM, USFS on Western Corridor Review Process**.

**Promote Coordination, Cooperation, and Consultation**

- Ensure meaningful, substantive and ongoing government-to-government consultation throughout all stages of the NEPA process and consider requiring cooperation, consultation, involvement and collaboration, as defined in *CEQ Collaboration in NEPA: A Handbook for NEPA Practitioners* (2007, p. 13), with Governors and state regulators for every NEPA review.

- Clarify that cooperating agency status continues until an EIS or Environmental Assessment (EA) is fully implemented.

- Guarantee coordination and consultation requirements in other federal statutes are respected, regardless of whether an agency is designated as a cooperating agency (See 42 U.S.C. §4334).

- Extend publication requirements to Notices of Intent to prepare EAs as part of land use plan amendments.

- Integrate the West-wide corridor reviews with these efforts and do not delay state consultation in the corridor reviews until future land use management or NEPA reviews.

**Reduce Duplication**

- Require EISs and EAs to:
  - Incorporate state environmental review requirements in addition to, but not in conflict with, NEPA;
  - Be consistent with state and local plans and laws to the maximum extent possible;
Describe any inconsistency between the document and any state or local plan and laws and the extent to which the agency should reconcile its action with the plan or law (See 40 CFR §1506.2), and

- Leverage the use of state, tribal and local expertise and science in federal environmental review, consultation, and permitting requirements.

- Require the use of state environmental analyses and data, subject to existing state data protection and transparency requirements, and seek agreement with affected states on the methodologies for joint reviews.

**Increase Consistency and Innovation**

- Standardize approaches to environmental analysis.

- Clarify significance thresholds and extraordinary circumstances based on best practices and pursue, where possible, consistent approaches to interpreting these NEPA requirements.

- Promote best practices or procedural innovations, including the use of landscape-scale, programmatic, adaptive and iterative analyses.

**Reward Collaboration**

- Analyze only the ‘action’ and ‘no action’ alternatives when a project is collaboratively developed, unless a third alternative is proposed during scoping and meets the purpose and need of the project.

- Reward successful implementation of collaborative projects through funding, retained-receipt authority, or other capacity to pursue subsequent projects.

**Create Pilot Projects and Categorical Exclusions (CEs)**

- Create a pilot program to prioritize landscape-scale environmental analysis for restoration projects greater than 100,000 acres that allows for predictable project-scale implementation and adaptive management.

- Develop a new NEPA restoration CE based on Decision Notices and Findings of No Significant Impact over the previous five years where no significant environmental impacts occurred; it should use the best available science, rely on collaboration, and have environmental safeguards for consistency with appropriate management plans and existing law and policy.

**Develop Metrics**

- Support independent research and analysis from non-governmental organizations, academic and other partners to inform NEPA improvements, including time and cost estimates for different project types.
• Develop metrics for successful outcomes, including cost and time performance indicators.

• Provide analytical tools for improved analysis of potential implications of no-action alternatives.

• Incorporate common interagency metrics that better assess the economic, social and ecological value of forest and rangeland restoration activities, including avoided costs of catastrophic wildfire and economic impacts to other linked sectors, into decision-making.

• Establish common interagency metrics of large-scale community wildfire resilience to track progress across multiple projects and resilience strategies.

**Utilize Technology**

• Use information technology to improve efficiency, provide greater transparency and reduce redundant data, analysis and business practices.

• Create a Federal Forest and Rangeland Planning and Project Dashboard to enable periodic and real-time monitoring of federal project planning and implementation, including improved measures of restoration outcomes.

• Explore the opportunity for a pilot project to develop a collaborative online geographic information system.

**Educate and Maximize Staff**

• Ensure agency NEPA implementation policy includes comprehensive training and accountability for field practitioners.

• Invest in key state and federal liaison positions with decision-making authority to provide better engagement between state and federal forest, wildlife, and rangeland agencies.

• Dedicate staff to providing technical assistance and enhancing communications across local, tribal, state and federal partners.

Please contact us if you have any questions regarding these recommendations. We are eager to improve the health of western forests and rangelands and look forward to continuing this discussion with you.

Respectfully,

Dennis Daugaard  
Governor of South Dakota  
Chair, WGA

David Ige  
Governor of Hawaii  
Vice Chair, WGA