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April 8, 2019

The Honorable Elaine L. Chao  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

The Honorable Mary Neumayr  
Chair and Managing Director  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, D.C. 20503

Dear Secretary Chao and Chair Neumayr:

Western Governors appreciate the February 15, 2019, response of the Council on Environmental Quality (CEQ) to our letter of October 10, 2018. In addition, thank you for CEQ's February 26, 2019, Memorandum M-19-11, which clarifies the applicability of Executive Order 13807 to states assigned National Environmental Policy Act (NEPA) authority under the Surface Transportation Project Delivery Program administered by the U.S. Department of Transportation (DOT). We also appreciate the time DOT and CEQ invested with WGA staff in February.

The Moving Ahead for Progress in the 21st Century Act (MAP-21) established the Surface Transportation Project Delivery Program, which authorizes states to assume the Federal Highway Administration's NEPA responsibilities for federal highway projects. Western states assigned NEPA responsibilities under this program have had great success in reducing the timelines for project approval and can provide valuable input on the program's efficacy. These states should be consulted in the development of any federal policy affecting this program. Furthermore, Western Governors urge DOT to engage in meaningful and substantive consultation with states on any guidance it develops regarding the April 9, 2018, One Federal Decision Memorandum of Understanding.

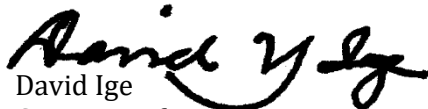
Many of the benefits of meaningful state involvement can also be achieved through improvements to the cooperating agency-lead agency relationship in all applications of NEPA. We urge CEQ to consult with Governors' offices on how best to realize these benefits as the agency continues the review of NEPA regulations. CEQ's rulemaking is of central importance to states, because it will affect how all federal agencies interact with states in NEPA implementation. Please see our [August 3, 2018, letter](#) for the Governors' detailed recommendations on CEQ's rulemaking.

As part of this rulemaking, CEQ can also model how states should be treated in the federal rulemaking process. The invitation to provide input as part of a notice-and-comment rulemaking process – equating states with stakeholders or members of the public – does not qualify as government-to-government consultation with a co-sovereign. In federal rulemakings affecting states – such as CEQ's review of its NEPA regulations – federal consultation with states should include document exchange and opportunities for feedback prior to public release. If CEQ believes there are obstacles to such an exchange, Western Governors are eager to discuss how to overcome them.

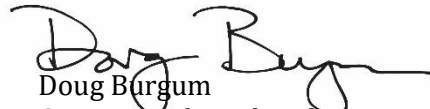
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Western Governors stand ready to work with the Administration to make infrastructure permitting and environmental reviews as efficient as possible. Because state-federal consultation can make these processes more effective, Governors urge DOT and CEQ to prioritize meaningful consultation as part of their streamlining efforts and to have substantive discussions with Governors on how to best accomplish this goal.

Sincerely,



David Ige  
Governor of Hawai'i  
Chair, WGA



Doug Burgum  
Governor of North Dakota  
Vice Chair, WGA