

PROTECT THE ENVIRONMENT AND THE ECONOMY? FIX NEPA

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Earth Day is the annual occasion for thoughtful reflections on how far we've come in cleaning up our environment, and what remains to be done to make it better.

But as we think about improving our environmental performance in the days ahead, let's also think about improving our costly and frustrating process for assessing the environmental impacts of major projects. Today that process, called NEPA after the National Environmental Policy Act, is badly broken.

To understand why, recall what was right about NEPA's original purpose. Enacted by Congress in 1970, the year of our first Earth Day, NEPA was the product of the infant green movement. Back then, before the nation had strong laws to protect the environment, NEPA served a simple but useful purpose – it required Federal agencies to consider the environmental consequences of major decisions before approving them. To accomplish this new task, EPA gave us the environmental impact statement (EIS), a useful tool for weighing the potential harm a project could inflict on the environment against its potential economic rewards.

My first-hand experience with NEPA began as a mining engineer in the early 1980s. In those days, the EIS for a mining project typically took about 18 months to prepare and cost between \$250,000 and \$300,000.

Two decades later, NEPA today has grown into a monster, devouring millions of dollars and years of time needlessly on redundant studies, conflicting requirements and wasteful litigation.

Consider my company's experience obtaining NEPA approval in 1992 for a gold mine in Alaska. By then the cost of the EIS had ballooned to \$11 million. By the time various Federal agencies approved the project, the gold market declined so much the project became uneconomic. Five years later, my company retooled the project to make it profitable for prevailing market conditions. This required a "supplemental" EIS at a cost of \$6 million for additional engineering and environmental studies in the same area.

By 1997 the price of gold had dropped further, forcing us again to scale back our project – and spend an additional \$4 million in feasibility studies and another \$1.7 million for a second supplemental EIS.

Behind these escalating costs and mind-numbing delays for additional studies is the real problem: NEPA requires Federal agencies to evaluate all significant environmental impacts, but doesn't define what "significant" means. Nor does it impose deadlines for evaluating the EIS. The result is a process that invites abuse.

Federal managers naturally fear lawsuits from obstructionists who raise trivial or arbitrary objections to slow or defeat development. So they define "significant" impacts so broadly that no proposed action, however minor, is excluded from NEPA evaluation. NEPA also allows obstructionists, as well

as other Federal agencies, to weigh in with objections late in the process, forcing further delays and higher costs.

This “paralysis by analysis” is especially harmful to a Western industry like mining that relies heavily on Federal land. Since 1980, the number of plans for new mining projects filed with the US Bureau of Land Management has fallen steeply, irrespective of volatile market conditions. The entire region’s economy is throttled when projects never materialize and jobs are sent offshore.

We can protect the environment without harming our economy. Fixing the broken NEPA process is one sure way to protect both.

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