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Council on Environmental Quality-Hill Letter

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January 6, 1995

OFFICE ON ENVIRONMENTAL POLICY

30FG

KATHLEEN A. MCGINTY

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ENCLOSURES FILED OVERSIZE ATTACHMENTS

4299

1 box filed 1/27/95

NARA 2990

EXECUTIVE OFFICE OF THE PRESIDENT

27-Jun-1994 01:33pm

TO: Catherine R. Zoi

FROM: Brian J. Johnson
Office on Environmental Policy

SUBJECT: WHITE HOUSE SAID TO BE CLOSE TO NAMING PERMANENT CEQ CHAIRMAN

WHITE HOUSE SAID TO BE CLOSE TO NAMING PERMANENT CEQ
CHAIRMAN

The White House is close to nominating a permanent chairman to lead the Council on Environmental Quality, sources told BNA June 24.

People rumored to be under consideration include Joan Bondareff, senior counsel to the House Merchant Marine and Fisheries Committee, and David Hawkins, senior attorney with the Natural Resources Defense Council.

Bondareff offered no comment when asked by BNA if she was under consideration. Hawkins said the rumor was untrue and he had not been contacted about the CEQ position.

The chairmanship has been staffed with acting chairmen since the Clinton administration came into office and the president announced his intention to abolish CEQ.

Following an outcry from some members of Congress and some in the environmental community, the Clinton administration slowly backed off from its initial position and now is seeking a \$1 million for CEQ in its fiscal 1995 appropriation. The funds will be used primarily to fund 10 staff positions.

Several sources who have followed the administration's decision to wipe out the 24-year-old council and then to retain it told BNA they supported the administration's decision to move ahead with an appointment. They noted the need for a permanent political appointee with close ties and access to the administration and the stability the appointment would bring to the council.

Also in a June 6 letter to President Clinton, Reps. William F. Clinger (R-Pa) and J. Dennis Hastert (R-Ill) said they were "confused and disturbed" by the lack of direction shown by the administration in its dealings over CEQ.

They then asked the president a series of questions pertaining to the status of the council and the "mixed signals" that the administration had sent over CEQ.

In particular, they quizzed Clinton over how CEQ's statutory oversight role under the National Environmental Policy Act could be accomplished without adequate funding and staff.

The White House Office on Environmental Policy did not return reporter calls.

NOTES 6/16

previous position, the Admin. plans as soon as the end of this month, to nominate someone to serve as chair of the WH Council on Environment Quality (CEQ). In 2/93, Clinton and VP Gore "stunned enviros" and the agency's Hill patrons by issuing a plan to abolish CEQ and replace it with a smaller WH Office of Enviro Policy (OEP). OEP CoS Cathy Zoi said that the WH now wants a "stronger CEQ with a captain at the helm." Under the new approach, Zoi said OEP head Katie McGinty will retain her role as the president's enviro policy adviser, but the CEQ will have clear authority to oversee enviro impact analyses and "work closely" with McGinty on policy matters, especially those requiring interagency coordination. Zoi said the WH is now "in the final stages of a vetting process" to select a nominee -- who would be subject to Senate confirmation. Zoi said that since the CEQ revamp may not be passed by this Congress, "everybody would feel more comfortable" if a permanent chair were in place (GREENWIRE, 6/16).

GOLF UPDATE: The House rejected a GOP effort led by frosh Rep. Roscoe Bartlett (R-MD) "to embarrass" the WH by cutting its budget by \$13,129.66, the cost of the recent golf outing by ex-WH Admin. dir. David Watkins. His proposal was defeated by a "mostly party-line" vote of 236-195. Bartlett said he introduced his proposal "to try to force the [WH] to provide a list of presidential helicopter flights taken by other [WH] officials." Under his proposal, any money cut from the WH budget "would have been reinstated once the complete travel records were made public." Bartlett noted that the WH released an "abbreviated log of flights" where the WH labeled the golf outing "merely as a trip from Anacostia to Camp David" (Kopytoff, Balto. SUN, 6/16).

DON'T BELIEVE IT: The WH says there is no truth to a blurb, buried in the 6/15 CHICAGO TRIBUNE's "Inc." column by Collin & Conklin, that stated WH Press Sec. Dee Dee Myers "is said to be on the way to a different job because she doesn't have sufficient presence to be presidential spokesman" (Interview, 6/16).

*5 D'AMATO: ONE DAY STOCK DEAL EARNED HIM MORE THAN \$15K

ROLL CALL's Simpson reports Sen. Al D'Amato (R-NY), the ranking GOPer on Sen. Banking, made between \$15,000 and \$50,000 in profits one day last year on stocks in an initial public offering (IPO). D'Amato's financial disclosure statement for '93, "discloses a windfall profit" he earned in the IPO of Computer Marketplace, an "obscure" CA company that went public last June. The stock was taken public "by the controversial Long Island brokerage house Stratton Oakmont," whose principals were accused by the SEC in '92 of manipulating stock prices "and engaging in deceptive sales practices." According to the FEC, Stratton Oakmont officials contributed at least \$11,000 in early '92 to D'Amato's campaign. A D'Amato spokesperson said \$8,000 was returned in 3/92 "after allegations were lodged against the firm's officials." The piece notes that the Banking Cmte "has oversight over the securities industry and its regulatory bodies, including the SEC." Speaker Tom Foley and Rep. Bob Torricelli (D-NJ) "have both come under fire" after ROLL CALL reports about "unusually lucrative trading involving IPOs." Both announced they would stop trading IPOs after the reports (6/16).

--- Thursday --- June 16, 1994 ---

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THE DAILY EXECUTIVE BRIEFING ON THE ENVIRONMENT

Updated Each Morning At 11:50

282 North Washington Street, Falls Church, VA (703) 237-5130

POPULATION: GROWING PAINS

Some fear the Vatican is provoking a "North vs. South" battle at the ICPD summit.

As the religious debate escalates, others focus on poverty, food, sex ed. (#17-18)

GREEN ALERT

CEQ: With the EPA bill languishing, the White House reverses course and plans to name a permanent CEQ chairman. (#4)

(DIRTY) AIR APPARENT

Lung Assn. says US ozone standard is too lax. (#6)

CA enviro group sues over allowance trading scheme. (#7)

ALSO: GM, other firms plan mass production of EVs. (#11)

THE SECOND FILIBUSTER?

Mining law reform may be headed for the slag heap at the hands of Western senators. (#5)

LAND OF RISING SUN POWER?

MITI projects clean energy use will triple by 2001. (#20)

Full index on page 2.

SPOTLIGHT

SPECIES SAGAS: OF WHALES, FISH AND DIPLOMACY

The National Marine Fisheries Service delisted the gray whale yesterday, giving the Clinton admin. another "success story" to tout as Endangered Species Act reauthorization gets underway on the Hill. (#2)

Interior Sec'y BABBITT's new initiatives got a "generally positive" reaction from the Senate panel taking up ESA reform. (#1)

FISH FIGHTS

Meanwhile, the effects of depleted fisheries on international relations manifest themselves:

-- Canada stalls US salmon fishers and lawmakers call for tough presidential action; (#3) and

-- Norway fires warning shots at Icelandic fishers in its waters as a "bitter" cod dispute deepens. (#19)

===== QUOTE OF THE DAY =====

"You and I and the rest of us can say what we want, but the people who will determine the future are the tens of millions of girls age 12 to 18 around the world."

-- Denis Hayes, organizer of the original 1970 Earth Day and executive director of the Bullitt Foundation in Seattle. (#18)

(All cites 6/16, unless noted.)

===== THE INSIDE LINE =====

*4 CEQ: ADMIN. REVERSES COURSE, MAY NOMINATE PERMANENT CHAIR

In a significant reversal of its previous position, the Clinton admin. plans as soon as the end of this month to nominate an individual to serve as chairman of the White House Council on Environmental Quality, a currently vacant post which requires Senate confirmation. Cathy Zoi, chief of staff in the White House Office of Environmental Policy -- which was created by Pres. Clinton to replace CEQ -- told GREENWIRE the White House now wants "a strong CEQ with a captain at the helm." The admin. is "in the final stages of a vetting process" to select a nominee, Zoi said.

The CEQ, established in 1969 by the National Environmental Policy Act, is vested with broad authority to monitor environmental trends and coordinate US policy, although in actual practice its influence has waxed and waned over the years. Its best known function is oversight of the process which requires federal agencies to conduct environmental impact analyses (EIAs) of all major projects, although the office is also required to produce an annual state-of-the-environment report and advise the president from an interagency perspective.

In 2/93, Pres. Clinton and VP Al Gore stunned enviros and the agency's congressional patrons by issuing a plan to abolish CEQ and replace it with the smaller OEP (GREENWIRE 2/9/93). Under the new approach, Zoi said, OEP chief Katie McGinty will retain her role as the president's enviro policy advisor, but the CEQ will have clear authority to oversee the EIA process and "work closely" with McGinty on policy matters, especially those requiring interagency coordination.

LEGISLATIVE IMPLICATIONS

Zoi says that two acting CEQ chairs, first Dinah Bear and then Raymond Clark, "have kept the trains running" at CEQEQ since the spring of '93, but that because legislation to abolish or revamp the CEQ may not be passed by this Congress, "everybody would feel more comfortable" if a permanent chairman were in place. The EPA-Cabinet elevation bill passed by the Senate in 5/93 and again in 5/94 contains language to abolish CEQ, as the admin. had asked. A companion bill reported by the House Government Operations Cmte. would maintain a presidential Office of NEPA Compliance headed by a Senate-confirmed director. Zoi was unsure whether the new CEQ chair would require reconfirmation if the House version of the EPA-Cabinet bill were passed.

Just last week, Reps. Dennis Hastert (R-IL) and William Clinger (R-PA) sent a letter to Pres. Clinton charging "a lack of direction" at CEQ and demanding to know how it is fulfilling its mandate with just four employees. A House Gov't Ops subcmte. staffer said, "It's a very disturbing situation. ... The law is still on the books and it needs to be implemented."

A Senate Environment Cmte. aide said the panel's chairman, Sen. Max Baucus (D-MT), had discussed the issue recently with ranking GOP member Sen. John Chafee (R-RI) and now is "leaning toward a stronger CEQ." Congressional, White House and other sources declined to name who is under consideration for the post, although air pollution expert David Hawkins of the Natural Resources Defense Council was mentioned as a possibility by one source (GREENWIRE sources).

FAX FROM THE OFFICE OF
JOAN BONDAREFF
SENIOR COUNSEL
COAST GUARD GROUP
COMMITTEE ON MERCHANT MARINE AND FISHERIES
ROOM 531, HOUSE ANNEX 2
WASHINGTON, DC 20515

PHONE: (202)226-3500
FAX: (202)226-0059

DATE:

7-18

TO:

Harry Zoi

NUMBER OF PAGES (INCLUDING COVER):

COMMENTS:

For your information,
Senate funding for CCG
Jan B

CONTACT

ElviraIF PROBLEMS ARISE
IN TRANSMITTING THIS FAX.

Calendar No. 520

103D CONGRESS }
2d Session }

SENATE

{ REPORT
{ 103-311

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGEN- CIES APPROPRIATION BILL, 1995

JULY 14 (legislative day, JULY 11), 1994. -- Ordered to be printed

Ms. MIKULSKI, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 4624]

The Committee on Appropriations to which was referred the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, reports the same to the Senate with amendments and recommends that the bill as amended do pass.

AMOUNT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

Amount of bill as recommended in House	\$90,561,173,061
Amount of change by Committee	+ 2,710,000
Amount of bill as reported to Senate	90,563,883,061
Amount of appropriations to date, 1994	88,307,894,932
Amount of budget estimates, 1995	90,106,858,061
Over estimates for 1995	+ 457,025,000
Over appropriations for 1994	+ 2,710,000

of requiring the OSTP to reimburse Federal agencies for 50 percent of the salary and expense costs for detailees.

The Committee is concerned about the delay in OSTP's submission of the technology policy milestones report requested in Senate Report 103-137. The Committee expects this report, consistent with the original terms set for it, by no later than November 1, 1994.

The Committee notes the administration's goal of achieving a 50-50 ratio of Federal research and development funds between defense and nondefense activities by fiscal year 1998. The Committee is concerned, however, that no specific plan has been articulated which outlines how this multiyear objective is to be achieved. The Committee expects such a plan with the submission of the fiscal year 1996 budget request, to be received no later than March 1, 1995.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Appropriations, 1994	\$675,000
Budget estimate, 1995	997,000
House allowance	997,000
Committee recommendation	997,000

PROGRAM DESCRIPTION

The Council on Environmental Quality/Office of Environmental Quality was established by the National Environmental Policy Act and the Environmental Quality Improvement Act of 1970. The Council serves as a source of environmental expertise and policy analysis for the White House, Executive Office of the President agencies, and other Federal agencies. CEQ promulgates regulations binding on all Federal agencies to implement the procedural provisions of the National Environmental Policy Act and resolves inter-agency environmental disputes informally and through issuance of findings and recommendations.

COMMITTEE RECOMMENDATION

The Committee has provided \$997,000 for the Council on Environmental Quality and Office of Environmental Quality, an increase of \$322,000 over the current level and the same amount requested by the administration and provided by the House.

The Committee notes that in the fiscal year 1994 budget request, the administration had proposed terminating the Council on Environmental Quality. It is now the Committee's understanding that the administration supports continuation of CEQ, with a more narrow mission focused primarily on ensuring compliance with the National Environmental Policy Act. In addition, CEQ will continue to produce an annual environmental trends report. The Committee further understands that CEQ will not duplicate the activities of the Office of Environmental Policy since CEQ will not play a policy role.

Given the importance of overseeing NEPA and ensuring that environmental values are adequately considered and integrated in Federal agency decisionmaking, the Committee supports the continuation of CEQ and its new, more narrow focus. However, the

Committee is concerned that CEQ will not be able to perform this function effectively until a permanent chairman is appointed. This position has been vacant for far too long, and the Committee urges the administration to fill this important position as expeditiously as possible.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Appropriations, 1994	\$5,495,289,000
Budget estimate, 1995	702,000,000
House allowance	831,322,000
Committee recommendation	500,348,000

¹ Includes \$4,709,000,000 in emergency funding.

GENERAL DESCRIPTION

FEMA is responsible for coordinating Federal efforts to reduce the loss of life and property through a comprehensive risk-based, all hazards emergency management program of mitigation, preparedness, response, and recovery. The Agency also works to assure the effectiveness and the availability of all hazard systems and resources in coping with all manmade and natural disasters; consolidates the programs aimed at preventing and mitigating the effects of potential disasters with the programs designed to deal with the disasters once they occur; coordinates and plans for the emergency deployment of resources that are used on a routine basis by Federal agencies; and helps to coordinate preparedness programs with State and local governments, private industry, and voluntary organizations. In addition, FEMA provides a Federal focus on fire prevention and public fire safety education.

FEMA's budget submission describes several principal activities, including:

Response and recovery.—This activity provides for the development and maintenance of an integrated operational capability to respond to and recover from the consequences of a disaster, regardless of its cause, in partnership with other Federal agencies, State and local governments, volunteer organizations, and the private sector.

Preparedness, training, and exercises.—This activity provides policy guidance, financial and technical assistance, training, and exercise support required to establish or enhance all hazard risk-based emergency management capabilities of Federal, State, and local governments.

Fire prevention and training.—This activity prepares Federal, State, and local officials, their staffs, emergency first responders, volunteer groups, and the public to meet the responsibilities of domestic emergencies through planning, mitigation, preparedness, response, and recovery. The U.S. Fire Administration has responsibility for all fire and emergency medical service programs and training activities. Educational programs are provided through the National Fire Academy [NFA], at the National Emergency Training Center and through the field fire training delivery systems.

Operations support.—This activity provides direct support and services which address the common needs of all agency programs, such as administration, acquisition, logistics, information systems.

07/18/94

09:54

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TELECOPIER TRANSMITTAL SHEET

July 22, 1994

PLEASE DELIVER THE FOLLOWING PAGES TO:

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☐ See attached sheet for multiple recipients.

FROM: Nicholas C. Yost

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415/882-2440

To Ms Katie McFenty

Katie -

Having seen a bootlegged copy of the draft EO on the OEP -- I trust it will stay as drafted and not mess with EO 11514 (as handwritten additions to the copy I have would do). NEPA & CEQ are not issues to again open & debate, which would only divide the Administration & the environmental community.

N.C.Y.



LAW OFFICES
 EDWARD LEE ROGERS
 1511 K STREET, N.W. SUITE 811
 WASHINGTON, D.C. 20005-1401

TELEPHONE
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 (202) 628-0654

July 22, 1994

By Facsimile Transmission and U.S. Mail

Katie McGinty
 Deputy Assistant to the President
 Director, Office on Environmental Policy
 Room 360, Old Executive Office Building
 Washington, D.C. 20500

Dear Director McGinty:

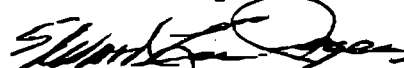
A proposed Executive Order (EO) to establish your office has just been brought to my attention. Upon calling your office, I was advised to direct my comments to you by FAX.

I strongly urge that the adoption of the proposed EO be deferred for now. The EO needs to be redrafted if it is not to jeopardize the legal structure underlying the case law and regulations that have been developed under the National Environmental Policy Act (NEPA). Most of that case law is based, directly or indirectly, on the Council on Environmental Quality Regulations implementing the procedural requirements of NEPA. The Council's authority to implement those regulations rests primarily on Executive Order 11514. The validity of those regulations has been upheld many times by the Federal courts, largely on the basis of E.O. 11514.

Among my concerns are that the proposed EO, inasmuch as it does not appear to preserve any of the Council's various responsibilities concerning the implementation and administration of NEPA, also undercuts the Council's authority to promulgate NEPA regulations. Yet, the EO does not purport to transfer to, or vest in, your office such regulation-writing authority (assuming that such action can be legally taken under NEPA, which is not at all clear). Thus, the result would be to undermine NEPA law.

Since 1970, except when I was with the Carter Administration as a political appointee in an environmental policy position, my practice has been devoted primarily to litigating environmental cases, including many NEPA cases, on behalf of public interest organizations, citizen groups and state, local and regional government agencies. I respectfully request that the EO, as now proposed, not be issued for the reasons stated above.

Sincerely yours,


 Edward Lee Rogers

Steve Shimbura -

~~Pat~~ Pat Parenteau

Environment
Law

- U VT.

NWF Late 70s

EPA Region I

Oregon F.W.

~~Eileen~~ Eileen Claussen

~~Phil~~ Phil Cumming - Council to EPW
McClutcher ¹²/₁₂

Doyle
Law Firm

= Jonathan Lash

- Jessica Matthews

- Jim Cubie

- Tina L. O. O.

- Exec VP - NWF 101 Alumni

- Ken Berlin - Skidg's Apps
Justice
Audobon

- Fred Krupp -

- David Hawkins -

- Michael Bean - EDF

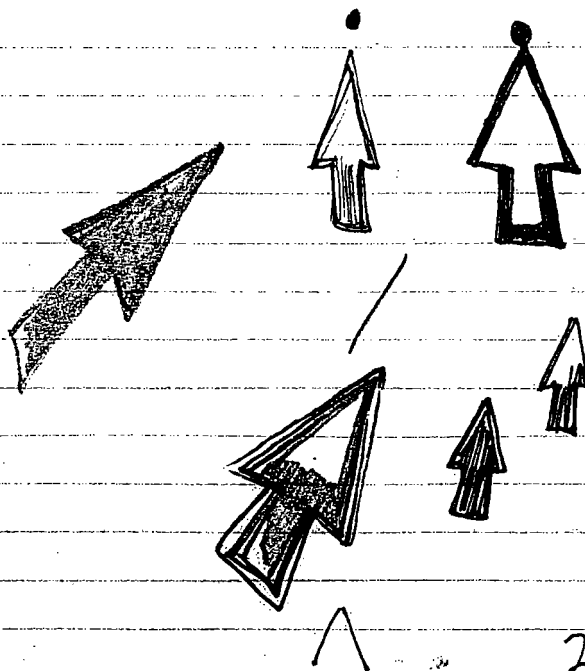
- Dick Franzen -

Feel pretty strongly intrenched

- Not enamored office of NEPA
compliance

- Don't want CEQ confined
to NEPA

- Don't want Joan



Options -

1st - meeting

Peter

Steve

Tom

Dave

2nd vacancies



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

DATE:

TO:

Cathy Lee

FAX NUMBER:

62710

TELEPHONE NUMBER:

NUMBER OF PAGES (including cover):

3

MESSAGE:

FROM:

Elizabeth Blay

TELEPHONE NUMBER: (202) 395-5750

FAX NUMBER: (202) 395-3745

To: Cathi Sol
Chief of Staff/CEQ

From: Elisabeth Blaug
Attorney

Subj: Acting CEQ Chair Under the Vacancy Act

Date: July 1, 1994

As we discussed this morning, I have taken another look at the Vacancy Act to determine what the most appropriate course is in ensuring CEQ retains an Acting Chair during the resolution of the appointment of a permanent Chair. As discussed below, I conclude the most appropriate course is to retain Ray Clark as Acting Chair for the following reasons: relevant Comptroller General Opinions interpreting the Vacancy Act strongly indicate that Ray could continue performing duties and functions as the *de facto* CEQ Chair. Even if the underlying extension of his temporary appointment was deemed invalid or defective, the Comptroller General opinion indicates the *de facto* doctrine may still apply. Finally, as noted in the Opinion, even if was later ruled the *de facto* doctrine does not apply in Ray's situation, it appears that Ray can continue in his capacity as Acting Chair so long as he does not take actions in any cases under which legal rights might arise which would be the subject of judicial review (which would be rare in his capacity as Acting Chair).

As we now know, a temporary appointment under the Act may not extend beyond 120 days, except in limited circumstances, none of which are applicable in CEQ's situation.¹ Further, various Attorney General/Comptroller General opinions conclude that after a vacant position has been temporarily filled under the Act, the power conferred by the Act is exhausted, and the President does not have the authority to appoint either the same, or another officer, to temporarily fill the office for an additional period.² However, a 1986 Comptroller General Opinion addressed the issue of the effect of the legal status of actions taken by temporary appointees under the Vacancy Act who continue to serve in an acting capacity beyond the statutory time limit. The opinion first noted that such actions could possibly be viewed as acts performed by a *de facto* officer,³ and that such acts performed under that status may be held valid and effectual.

¹ 5 U.S.C. § 3348 (a).

² 65 Comp. Gen. 626, 630 (1986).

³ A *de facto* officer is one who performs the duties of an officer or position with apparent right and under color of appointment and claim to title of such office or position. 65 Comp. Gen. 626, 630, 633 (1986).

insofar as concerns the public and the rights of third persons.⁴ The Opinion then added that even officers acting under a temporary appointment deemed defective or invalid could still be viewed as *de facto* officers, as:

"...the general rule is that when an official person or body has apparent authority to appoint to public office, and apparently exercises such authority, and the person so appointed enters on such office, and performs its duties, he will be an officer *de facto*, notwithstanding that...the power was exercised in an irregular manner."⁵ (emphasis added).

Noting that it is unclear whether Courts would apply the *de facto* doctrine for the specific Vacancy Act provision limiting a temporary appointment, the Opinion nevertheless implicitly provides an opportunity for Ray to retain his status as Acting Chair, as it states that if the extension continues even if the temporary appointee is not deemed a *de facto* officer:

"it is probably safer to say that you should not take action in any case out of which legal rights may arise which would be subject to review by the courts."⁶

Thus, there is a strong likelihood that Ray can legitimately continue performing duties and functions in his capacity as the *de facto* Acting Chair of CEQ; at the least, Ray can continue as Acting Chair, provided he does not take any actions vulnerable to legal challenges. I suggest that as added "insurance" you get a sense from the House Merchant Marine & Fisheries and Senate Environment and Public Works that Ray's tenure as Acting Chair would not be challenged. My sense is that the Hill would be comfortable with this arrangement, as any additional temporary appointments could draw unnecessary attention to CEQ's situation. Finally, you may wish to consult further with White House Counsel.

⁴ Id.

⁵ Id.

⁶ Id at 634, citing 32 Op. Att. Gen. 139 (1920),

For Immediate Release

January 25, 1993

EXECUTIVE ORDER

- - - - -

ESTABLISHMENT OF THE NATIONAL ECONOMIC COUNCIL

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including sections 105, 107, and 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Establishment. There is established the National Economic Council ("the Council").

Sec. 2. Membership. The Council shall comprise the:

- (a) President, who shall serve as Chairman of the Council;
- (b) Vice President;
- (c) Secretary of State;
- (d) Secretary of the Treasury;
- (e) Secretary of Agriculture;
- (f) Secretary of Commerce;
- (g) Secretary of Labor;
- (h) Secretary of Housing and Urban Development;
- (i) Secretary of Transportation;
- (j) Secretary of Energy;
- (k) Administrator of the Environmental Protection Agency;
- (l) Chair of the Council of Economic Advisers;
- (m) Director of the Office of Management and Budget;
- (n) United States Trade Representative;
- (o) Assistant to the President for Economic Policy;
- (p) Assistant to the President for Domestic Policy;
- (q) National Security Adviser;
- (r) Assistant to the President for Science and Technology Policy; and
- (s) Such other officials of executive departments and agencies as the President may, from time to time, designate.

more

(OVER)

Sec. 3. Meetings of the Council. The President, or upon his direction, the Assistant to the President for Economic Policy ("the Assistant"), may convene meetings of the Council. The President shall preside over the meetings of the Council, provided that in his absence the Vice President, and in his absence the Assistant, will preside.

Sec. 4. Functions. (a) The principal functions of the Council are: (1) to coordinate the economic policy-making process with respect to domestic and international economic issues; (2) to coordinate economic policy advice to the President; (3) to ensure that economic policy decisions and programs are consistent with the President's stated goals, and to ensure that those goals are being effectively pursued; and (4) to monitor implementation of the President's economic policy agenda. The Assistant may take such actions, including drafting a Charter, as may be necessary or appropriate to implement such functions.

(b) All executive departments and agencies, whether or not represented on the Council, shall coordinate economic policy through the Council.

(c) In performing the foregoing functions, the Assistant will, when appropriate, work in conjunction with the Assistant to the President for Domestic Policy and the Assistant to the President for National Security.

(d) The Secretary of the Treasury will continue to be the senior economic official in the executive branch and the President's chief economic spokesperson. The Director of the Office of Management and Budget, as the President's principal budget spokesperson, will continue to be the senior budget official in the executive branch. The Council of Economic Advisers will continue its traditional analytic, forecasting and advisory functions.

Sec. 5. Administration. (a) The Council may function through established or ad hoc committees, task forces or interagency groups.

(b) The Council shall have a staff to be headed by the Assistant to the President for Economic Policy. The Council shall have such staff and other assistance as may be necessary to carry out the provisions of this order.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

WILLIAM J. CLINTON

EXECUTIVE ORDER

ESTABLISHMENT OF THE OFFICE ON ENVIRONMENTAL POLICY

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including sections 105, 107, and 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Establishment. There is established in the Executive Office of the President the Office on Environmental Policy ("OEP").

Section 2. Functions. (a) The principal functions of the OEP are: (1) to coordinate the environmental policy-making process within the Executive Office of the President; (2) to coordinate and facilitate the provision of environmental policy advice to the President; (3) to assist the President in ensuring that his proposed programs, goals and decisions are consistent with federal environmental protection laws, ~~including the~~ National Environmental Policy Act, and the Administration's ^{advice} environmental goals; (4) to monitor implementation of the President's environmental policy agenda; (5) to assist and advise the President with respect to interagency disagreements concerning the environmental implications of proposed federal activities, policies, legislation, rules and other matters; and (6) to assist the President in developing a long-range national environmental strategy.

(b) All executive departments and agencies and the Assistants to the President for Domestic Policy, National Security, Economic Policy and Science and Technology Policy shall coordinate environmental policy development with the OEP.

(c) In performing its functions, the OEP will, when appropriate, work in conjunction with the Domestic Policy Council, the National Security Council, the National Economic Council and the Office of Science and Technology Policy.

Section 3. Administration. (a) The OEP may function through established committees, task forces or interagency groups.

(b) The OEP shall ^{The President} ~~have~~ ^{appoint} a Director and such additional staff and other assistance as may be necessary to carry out the provisions of this order.

(c) All executive departments and agencies shall cooperate with the OEP and provide to the OEP such assistance, information, and advice as the OEP may request, to the extent permitted by law.

Section 4. National Environmental Strategy. (a) The OEP shall provide recommendations to the President regarding a long-range national environmental strategy before ~~June 1, 1994~~. Those recommendations shall-- ^{Goals}

(1) recommend a specific plan of action for meeting long-term, measurable environmental goals;

(2) identify appropriate mechanisms for monitoring progress toward each such goal; and

(3) take into consideration national economic objectives, existing law in respect of environmental protection and requirements under treaties and international agreements to which the United States is a signatory.

(b) In developing recommendations regarding a national environmental strategy, the OEP shall consult with--

(1) appropriate executive departments, agencies and officials of the Executive Office of the President;

(2) appropriate officials of State governments, Indian tribes, and political subdivisions of States;

(3) Congress;

(4) representatives of citizens groups and industries;

and

(5) other persons or entities that the President considers to be appropriate.

THE WHITE HOUSE,

_____, 1993.

(Cut Here)



Center for Marine Conservation
T E L E F A X

*Copy to
Cathy and
Mum*

TO: Kathleen McGinty

FR: Roger McManus

DATE: July 29, 1994

The following number of pages are being transmitted, including the cover 4. If there are any problems in the transmission please call CMC at 202-429-5609.

Additional Message:

July 29, 1994

President Bill Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

As you know from our previous correspondence, the environmental community has for some time been concerned about the status of the Council on Environmental Quality (CEQ). Under current staff and budget restrictions, CEQ's ability to carry out the vital statutory requirements assigned to it by the National Environmental Policy Act (NEPA), the Environmental Quality Improvement Act (EQIA), and Section 309 of the Clean Air Act, has been seriously impaired.

We are aware that your administration has been considering various options to address this issue. We are writing today to express our strong support for the recommendations regarding CEQ that were recently made to you by Senators Max Baucus and John Chafee in their joint letter of July 25. As they point out, CEQ is responsible by law for "overseeing activities in nearly 100 federal agencies, coordinating federal programs relating to environmental quality, and issuing guidelines to federal agencies for the preparation of environmental impact statements." They state that these vital responsibilities cannot be effectively carried out by a skeletal staff lacking the presidentially-appointed Senate confirmed leadership called for by law. These concerns are similar to those previously raised in correspondence to your White House staff from Representatives Gerry Studds and John Dingell.

Last year, we attempted to work with both White House staff and members of Congress to develop a legislative alternative to the original proposal (to abolish CEQ and transfer its authority to a Department of Environmental Protection) contained in a bill passed by the Senate. It now appears that neither the Senate nor alternative House language is likely to be enacted.

We do not perceive an inherent conflict between the roles of CEQ and the White House Office on Environmental Policy (OEP). Indeed, previous administrations have had both professional and political entities within the Executive Office of the President that have effectively dealt with environmental issues. We believe that the simplest, most effective way to resolve this problem is to revitalize CEQ as recommended by Senators Baucus and Chafee in their letter to you.

We are also concerned because a draft of an Executive Order, intended to further define the role of the present Office on Environmental Policy, is currently being circulated by OMB for internal comments. Unfortunately, that order as drafted would not clarify the relationship between the EOP and CEQ; it would instead create a series of legal and administrative conflicts between CEQ's statutory obligations and OEP's proper role within the White House. We strongly recommend that this draft executive order be withdrawn.

We urge instead that you accept the recommendations made by Senators Baucus and Chafee, and that your staff work with key members of Congress and with the environmental community to select and nominate an experienced, respected Chairperson to head the Council on Environmental Quality. We also urge you to provide CEQ with an adequate staff and budget so that it can be fully effective in advancing the environmental objectives of your administration.

We and our colleagues would be pleased to work with the White House staff and other Administration officials to help identify and assure the confirmation of an appropriate Chair for CEQ; we believe that it is high time to put this controversy behind us and to focus on achieving several outstanding goals on your environmental agenda. National environmental organization leaders will be meeting in September; we hope that the future of CEQ will be resolved by that time and that we will be able to concentrate on addressing other pressing environmental matters.

Sincerely,

*Keith
What forum
is this?
- CZ
(pls return)*

Roger McManus
Roger McManus
President
Center for Marine Conservation

Se C. Pritchard
Paul Pritchard
President
National Parks and Conservation
Association

Rodger Schlickeisen
Rodger Schlickeisen
President
Defenders of Wildlife

Michael McCloskey
Michael McCloskey
Chairman
The Sierra Club

cc: Vice President Al Gore
OMB Director Leon Panetta
OEP Director Kathleen McGinty
Senator Max Baucus
Senator John Chafee
Senator John Glenn
Senator William Roth
Representative Gerry Studds
Representative John Dingell
Representative John Conyers
Representative William Clinger, Jr.

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ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

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WASHINGTON, DC 20515-6143

June 6, 1994

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JOHN L. MICA, FLORIDA
ROB PORTMAN, OHIO

BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY—(215) 225-5001
MINORITY—(202) 225-5074

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear President Clinton,

The purpose of this letter is to ask for clarification of the Administration's policy with regards to the Council of Environmental Quality. We are confused and disturbed with the lack of direction by the Administration with regards to the Council of Environmental Quality. In addition, it appears that the Administration has effectively abolished, for all practical purposes, CEQ without the enacted legislative authorization to do so.

You and others in your Administration indicated early on that your goal was to abolish the Council of Environmental Quality and transfer its functions to EPA (February 8, 1993). Since that announcement, environmental groups and many of us in Congress raised serious concerns about the transfer of these important functions to EPA. However, the Administration continued to insist that the Council of Environmental Quality be abolished and its functions be transferred. As a result, the Senate held hearings, and passed legislation which would abolish CEQ and transfer its functions. On a separate track, last November the House passed H.R. 3512 as an alternative approach. However, even prior to any authorization legislation being considered by Congress (much less passed), the Administration had already dismissed the majority of CEQ employees despite much protest.

The Council of Environmental Quality handles critical functions as related to the implementation of National Environmental Policy Act. As you know, Title II of the National Environmental Policy Act establishes the Council of Environmental Quality. Section 201 requires that the President transmit a report to Congress annually beginning in July 1, 1970 on the state of the nation's environment. Section 202 establishes in the Executive Office of the President a Council of Environmental Quality. Section 204 provides specific duties and functions of the Council including preparation of the Environmental Quality Report, gathering information concerning conditions and trends

in the quality of the environment, reviewing and appraising the various programs in light of implementing NEPA, developing and recommending to the President national policies to foster and improve environmental quality, and conducting investigations, studies, and surveys relating to environmental quality.

It is our understanding that the Administration in its budgets to Congress and through its staff reductions has decreased the CEQ staff from 27 FTE in FY 1992 to 22 FTE in FY 1993 to 3 FTE in FY 1994. In the FY 1995 budget, the request increases the staff to 10 FTE. This certainly sends mixed signals and is creating an unstable situation given the importance of CEQ's oversight role in the NEPA process. Despite the creation of a new environmental office in the White House, the NEPA statute still requires a fully functioning Council of Environmental Quality whose job it is to assist in the protection of the environment.

Given what has transpired at CEQ in the past year and a half, there are a number of questions which we would like to have answered:

- It is our understanding that the last time that the Council on Environmental Quality transmitted a report on the state of the nation's environment was in January 1993. Is this correct? When will the required report for this year be transmitted to Congress?
- Given that the Council of Environmental Quality staff has decreased to approximately three employees, what functions is the Council performing (please list specifically)? What is the Council doing with regards to overseeing and administering the National Environmental Policy Act? Are some of the CEQ functions being handled by the Office of Environmental Policy or by EPA? Given the decrease from 27 employees to three, what duties are not being done now that were previously handled by the Council?
- The Administration is asking in its FY 1995 budget request for an increase from 3 employees to 10 employees. Why did the Administration dismiss employees prior to the passage of legislation? Is the intention now to increase the number of employees at the Council of Environmental Quality? Even with 10 employees wouldn't it be hard to implement all of the Council's functions? What functions would be performed with 10 employees that are not now being performed?
- What is the status of the temporary 120 appointment of Ray Clark as chairman? What will happen after that appointment is expired? Will you appoint a new chairman for another temporary period or do you intend to nominate a chairman subject to Senate confirmation? Who will this be?

3

- Why hasn't the Administration come forward to Congress to resolve the fate of the Council? What are the Administration's intentions and what is the specific timeframe in which you intend to inform Congress about these intentions? Does the Administration have an official position on pending legislation?

We would appreciate an expeditious explanation to these questions. Thank you.

Sincerely,



J. Dennis Hastert
Ranking Minority Member
Subcommittee on Environment,
Energy, and Natural Resources



William F. Clinger, Jr.
Ranking Minority Member
Government Operations
Committee

cc: The Honorable John Conyers, Jr.
Chairman
House Committee on Government Operations

The Honorable Mike Synar
Chairman
Subcommittee on Environment, Energy and Natural Resources
House Committee on Government Operations

The Honorable Gerry E. Studds
Chairman
Committee on Merchant Marine and Fisheries

The Honorable Jack Fields
Ranking Minority Member
Committee on Merchant Marine and Fisheries

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-8175

PETER L. SCHER, STAFF DIRECTOR
STEVEN J. SHIMBERG, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

July 25, 1994

The Honorable Bill Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

As leaders of the Senate committee with jurisdiction over the Council on Environmental Quality (CEQ), we are writing to express our concern with the current status of the CEQ and to urge you to consider your nomination for chairperson of the Council carefully.

As you know, Congress created CEQ in 1969 as a statutory Council within the Executive Office of the President. It has several critical functions, including oversight and implementation of the National Environmental Policy Act (NEPA) and preparation of the President's annual environmental quality report to Congress.

In February of last year, you announced a plan to abolish CEQ and replace it with the White House Office on Environmental Policy (OEP). You said at the time that OEP will "provide a more effective mechanism for focusing Federal environmental policy." Despite serious concerns about this decision by a number of members of this Committee, we supported your initial request and approved legislation abolishing CEQ. That legislation was approved by the full Senate in connection with legislation to make the Environmental Protection Agency a full cabinet department. At the time of the Committee's action, we were assured that you would issue an Executive Order establishing the White House Office on Environmental Policy.

Now, more than eighteen months since your announcement, legislation to transfer CEQ's functions to an elevated Department of the Environment has not been enacted. The Executive Order to create the Office of Environmental Policy has not been issued, as promised. Meanwhile, a skeletal staff without permanent direction is attempting to carry out CEQ's statutory responsibilities. We believe this situation is unacceptable.

July 25, 1994

During this intervening time, it has become clear that our initial concerns were well-founded and the decision to abolish CEQ was a mistake. We understand that your staff has also begun to explore options for the restoration of CEQ. We believe it is time to resolve the languishing state of CEQ, and in so doing, bolster the environmental policy staff within the overall framework of the Executive Office of the President.

Modeled by Congress on the President's Council on Economic Advisors, CEQ was intended to advise the President on environmental matters of both national and international import. However, its functions are not limited to an advisory capacity. In addition to its statutory duty to prepare an annual Environmental Quality Report, CEQ is charged with overseeing activities in nearly 100 federal agencies, coordinating federal programs relating to environmental quality, and issuing guidelines to federal agencies for the preparation of environmental impact statements. Unless and until a new law is enacted, these statutory duties cannot be transferred to EPA, to OEP, or to any other office.

CEQ remains the statutorily mandated overseer of NEPA. NEPA is one of our nation's most important laws. It was one of the first environmental statutes in this country, and over its nearly 25 year history, it has come to be regarded as the federal government's magna carta for the environment. CEQ is the agency most responsible for the statute's success. It is essential that both the Council and the person nominated to chair it embody the kind of stature traditionally attributed to NEPA. The CEQ chairperson must be able to provide management directives to every federal agency at the highest levels. The nomination of a widely-respected and experienced environmental leader to serve as chairperson of CEQ will send a signal that the Administration takes the Council and its statutory responsibilities seriously. Moreover, such a chairperson will help vest CEQ with the kind of permanence and continuity necessary to assure the Council's place in future Administrations.

In addition to providing CEQ with proper leadership, the Administration must provide the Council with sufficient funding. Its existing resources are clearly inadequate. During the Bush Administration, CEQ had 32 full-time staff members and an annual budget of \$2.65 million. Even with the 25% cut you made in White House personnel, that would still leave a staff of 24 for CEQ. Now, it has only three full-time staff members and a budget of \$625,000. We understand that the Council needs a minimum of 18 staff members simply to carry out its NEPA oversight responsibilities, and a minimum of 24 to carry out all its statutory functions.

July 25, 1994

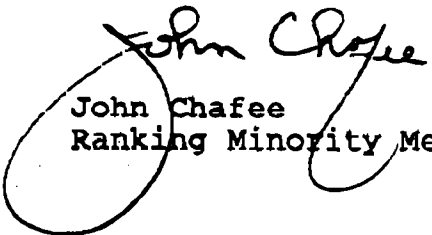
Congress originally passed NEPA and created CEQ to ensure that each President and Administration has a permanent institutional capability to develop and promote strong national environmental policies. With the languishing of the CEQ in the last year and a half, we have become convinced that Congress' original decision to create and maintain CEQ as an entity separate from EPA and the President's personal staff was the correct decision. The rationale for a permanent environmental Council with a Senate-confirmed chairperson within the Executive Office of the President remains as valid today as it was in 1969.

Reviving CEQ at this time will remove one of the most contentious issues from the bogged-down EPA Cabinet legislation while there is still time to pass that bill. It will bring the Executive Office of the President into compliance with current law. It will enhance your environmental policy resources and improve your Administration's ability to deal with the vast, complex and crucial environmental policy issues we must contend with. And with a Senate-confirmed chairperson in place, it will improve the Environment and Public Works Committee's -- and the Congress' as a whole -- ability to communicate and work with your Administration on the wide range of environmental policy issues.

We know you remain committed to protecting our nation's environment, and we look forward to continuing to work with you toward this end.

With best personal regards, we are

Sincerely,


John Chafee
Ranking Minority Member


Max Baucus
Chairman

WILLIAM F. CLINGER, JR. PENNSYLVANIA
 RANKING MEMBER
 AL McCANDLESS, CALIFORNIA
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MAJORITY—(207) 225-6441
 MINORITY—(207) 225-6076

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Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

June 6, 1994

The Honorable William J. Clinton
 President of the United States
 The White House
 Washington, D.C. 20500

Dear President Clinton,

The purpose of this letter is to ask for clarification of the Administration's policy with regards to the Council of Environmental Quality. We are confused and disturbed with the lack of direction by the Administration with regards to the Council of Environmental Quality. In addition, it appears that the Administration has effectively abolished, for all practical purposes, CEQ without the enacted legislative authorization to do so.

You and others in your Administration indicated early on that your goal was to abolish the Council of Environmental Quality and transfer its functions to EPA (February 8, 1993). Since that announcement, environmental groups and many of us in Congress raised serious concerns about the transfer of these important functions to EPA. However, the Administration continued to insist that the Council of Environmental Quality be abolished and its functions be transferred. As a result, the Senate held hearings, and passed legislation which would abolish CEQ and transfer its functions. On a separate track, last November the House passed H.R. 3512 as an alternative approach. However, even prior to any authorization legislation being considered by Congress (much less passed), the Administration had already dismissed the majority of CEQ employees despite much protest.

The Council of Environmental Quality handles critical functions as related to the implementation of National Environmental Policy Act. As you know, Title II of the National Environmental Policy Act establishes the Council of Environmental Quality. Section 201 requires that the President transmit a report to Congress annually beginning in July 1, 1970 on the state of the nation's environment. Section 202 establishes in the Executive Office of the President a Council of Environmental Quality. Section 204 provides specific duties and functions of the Council including preparation of the Environmental Quality Report, gathering information concerning conditions and trends

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 MARK STURM, MICHIGAN

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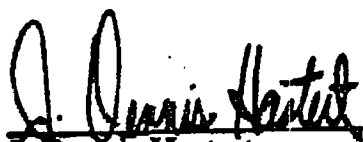
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We would appreciate an expeditious explanation to these questions. Thank you.

Sincerely,


J. Dennis Hastert
Ranking Minority Member
Subcommittee on Environment,
Energy, and Natural Resources


William F. Clinger, Jr.
Ranking Minority Member
Government Operations
Committee

cc: The Honorable John Conyers, Jr.
Chairman
House Committee on Government Operations

The Honorable Mike Synar
Chairman
Subcommittee on Environment, Energy and Natural Resources
House Committee on Government Operations

The Honorable Gerry E. Studds
Chairman
Committee on Merchant Marine and Fisheries

The Honorable Jack Fields
Ranking Minority Member
Committee on Merchant Marine and Fisheries

JOHN CONYERS, JR., MICHIGAN
CHAIRMAN

CARDISS COLLINS, ILLINOIS
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ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

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June 6, 1994

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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ROB PORTMAN, OHIO

BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY--(202) 225-8051
MINORITY--(202) 225-8074

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear President Clinton,

The purpose of this letter is to ask for clarification of the Administration's policy with regards to the Council of Environmental Quality. We are confused and disturbed with the lack of direction by the Administration with regards to the Council of Environmental Quality. In addition, it appears that the Administration has effectively abolished, for all practical purposes, CEQ without the enacted legislative authorization to do so.

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TO: Ray
6/22/94

34 JUN 9
P2: 47

in the quality of the environment, reviewing and appraising the various programs in light of implementing NEPA, developing and recommending to the President national policies to foster and improve environmental quality, and conducting investigations, studies, and surveys relating to environmental quality.

It is our understanding that the Administration in its budgets to Congress and through its staff reductions has decreased the CEQ staff from 27 FTE in FY 1992 to 22 FTE in FY 1993 to 3 FTE in FY 1994. In the FY 1995 budget, the request increases the staff to 10 FTE. This certainly sends mixed signals and is creating an unstable situation given the importance of CEQ's oversight role in the NEPA process. Despite the creation of a new environmental office in the White House, the NEPA statute still requires a fully functioning Council of Environmental Quality whose job it is to assist in the protection of the environment.

Given what has transpired at CEQ in the past year and a half, there are a number of questions which we would like to have answered:

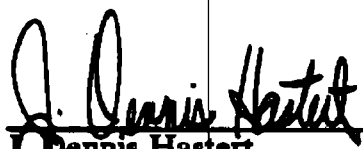
- It is our understanding that the last time that the Council on Environmental Quality transmitted a report on the state of the nation's environment was in January 1993. Is this correct? When will the required report for this year be transmitted to Congress?
- Given that the Council of Environmental Quality staff has decreased to approximately three employees, what functions is the Council performing (please list specifically)? What is the Council doing with regards to overseeing and administering the National Environmental Policy Act? Are some of the CEQ functions being handled by the Office of Environmental Policy or by EPA? Given the decrease from 27 employees to three, what duties are not being done now that were previously handled by the Council?
- The Administration is asking in its FY 1995 budget request for an increase from 3 employees to 10 employees. Why did the Administration dismiss employees prior to the passage of legislation? Is the intention now to increase the number of employees at the Council of Environmental Quality? Even with 10 employees wouldn't it be hard to implement all of the Council's functions? What functions would be performed with 10 employees that are not now being performed?
- What is the status of the temporary 120 appointment of Ray Clark as chairman? What will happen after that appointment is expired? Will you appoint a new chairman for another temporary period or do you intend to nominate a chairman subject to Senate confirmation? Who will this be?

3

- Why hasn't the Administration come forward to Congress to resolve the fate of the Council? What are the Administration's intentions and what is the specific timeframe in which you intend to inform Congress about these intentions? Does the Administration have an official position on pending legislation?

We would appreciate an expeditious explanation to these questions. Thank you.

Sincerely,

 R/IL
J. Dennis Hastert
Ranking Minority Member
Subcommittee on Environment,
Energy, and Natural Resources

 R/PA
William F. Clinger, Jr.
Ranking Minority Member
Government Operations
Committee

cc: The Honorable John Conyers, Jr.
Chairman
House Committee on Government Operations

The Honorable Mike Synar
Chairman
Subcommittee on Environment, Energy and Natural Resources
House Committee on Government Operations

The Honorable Gerry E. Studds
Chairman
Committee on Merchant Marine and Fisheries

The Honorable Jack Fields
Ranking Minority Member
Committee on Merchant Marine and Fisheries

1 **DRAFT RESPONSE TO CONGRESSMAN CLINGER ET AL's 6/6/94 LETTER**

2 Thank you for your letter dated June 6, 1994, in which you
3 expressed your concerns regarding the status of the Council on
4 Environmental Quality (CEQ). As your letter points out, this
5 Administration had originally proposed transferring many of CEQ's
6 responsibilities to the Environmental Protection Agency. However,
7 since Congress has not passed legislation to effect this change,
8 the Administration has taken a number of steps to revitalize the
9 Council. For example, when it became clear that Congress would not
10 act upon H.R. 3512, the Administration requested a \$425,000
11 supplemental appropriation for fiscal year 1993. In addition, the
12 President has requested from Congress \$1 million for CEQ for
13 fiscal year 1995. Accordingly, CEQ has developed a strategy to
14 ensure it is involved in the major environmental issues identified
15 by the Administration. Finally, we are expecting to submit to the
16 Senate a nomination for a permanent CEQ Chair, which is the
17 culminating step in the President's commitment to a stronger, more
18 active CEQ.

19 The following are responses to your specific questions.

20 1. The Council on Environmental Quality transmitted its 23rd
21 Annual Report on Environmental Quality in January 1993. This
22 Report covered calendar year 1992. The CEQ is now in the process
23 of drafting the 24th Annual Report, which will address calendar
24 year 1993. Publication, which is anticipated for late summer, will
25 ensure that an Annual Report has been prepared for every calendar
26 year since the 1970 enactment of the National Environmental Policy

1 Act (NEPA).

2 2. As your letter notes, CEQ was established by Title II of
3 NEPA, and its primary statutory mandates include: advising the
4 President on environmental policy matters; oversight of federal
5 agency implementation of NEPA; review and evaluation of federal
6 programs and activities for compliance with NEPA's policies; and
7 preparation of an annual environmental quality report.

8 The Office on Environmental Policy (OEP) was created to serve
9 as the President's chief environmental policy advisor. While this
10 reduces CEQ's policy role, it provides for a greater CEQ focus on
11 its NEPA oversight functions. This emphasis is particularly
12 important in light of two of the Administration's key environmental
13 initiatives: ecosystem management, and environmental justice. For
14 example, the environmental impact assessment (EIA) process under
15 NEPA provides a mandate and framework for federal agencies to
16 consider and incorporate ecosystem management principles into the
17 decisionmaking process. To that end, CEQ is nearing publication
18 of a cumulative effects analysis handbook, which discusses
19 methodologies for addressing environmental effects of an agency
20 action on an ecosystem basis.

21 In addition, a focus on its NEPA oversight activities will
22 ensure more effective implementation of the President's Executive
23 Order 12898, which requires agencies to consider the disparate
24 environmental effects their actions may have on low income and
25 minority communities. As NEPA is one of the E.O.'s primary
26 implementing tools, CEQ has drafted a document to provide guidance

1 to federal agencies on incorporating the E.O. requirements into the
2 NEPA process, as promoted by the President in his memorandum to
3 federal agencies which accompanies the Executive Order. This
4 guidance is currently being reviewed by the Domestic Policy
5 Council. CEQ also recently held a socioeconomic impact assessment
6 conference along with a consortium of historically black colleges
7 and universities in Atlanta, to exchange ideas on effectively
8 incorporating the E.O. values into the NEPA process.

9 Thus, although until recently CEQ had three FTEs as of October
10 1, 1993, (Senior Policy Analyst, Attorney, and Confidential
11 Assistant), it has continued to perform its NEPA oversight duties
12 to the greatest extent possible. Over the course of the last five
13 months CEQ has hired an additional support staff member, and is
14 bringing on board within the next few weeks a policy analyst. The
15 Administration supported CEQ in its efforts to secure senior level
16 detailees from other agencies, who have provided varying agency
17 perspectives in working on a number of CEQ initiatives related to
18 implementation of NEPA, including the development of an EIA
19 Effectiveness Study, which will identify and evaluate NEPA
20 implementation issues, and lead to development of a strategy for
21 strengthening the overall effectiveness of the NEPA process. CEQ
22 represented the United States last month at an International EIA
23 Summit at which representatives from 30 countries discussed and
24 exchanged views on the effectiveness of their nation's EIA
25 statutes. I should add that the summit was followed by the Annual
26 International Association of Impact Assessment Conference, at which

1 CEQ was awarded the Institutional Award of Excellence for its
2 contributions to international environmental impact assessment.

3 As noted earlier, although OEP has taken on the primary role
4 of the President's environmental policy advisor, the remaining CEQ
5 statutory mandates remain at CEQ; no functions have transferred
6 to EPA, or any other agency. Since CEQ's NEPA oversight role
7 extends to the over 80 federal agencies that comply with NEPA, the
8 reduction in CEQ staff has by necessity resulted in a more
9 concentrated focus on key NEPA implementation issues. The staff
10 continues to perform most of its statutory functions. 7

11 3. The President announced in February 1993 that CEQ would
12 be abolished, while an Office on Environmental Policy would be
13 established. Over the course of the remaining 9 months of fiscal
14 year 1993, many CEQ employees left in anticipation of CEQ's
15 abolishment on September 30, 1993. As discussions with Congress
16 continued, it became clear that additional details needed to be
17 addressed before a final decision regarding CEQ's role in this
18 Administration would be made. Accordingly, at that time a policy
19 decision was made to retain 3 of the remaining 12 FTEs.

20 This Administration is now committed to a stronger,
21 revitalized CEQ, which will retain its statutory authority to
22 oversee the NEPA process. CEQ will also work closely with OEP
23 Director Katie McGinty on policy matters, especially those
24 requiring interagency coordination. To that end, this
25 Administration has asked in its FY 1995 budget request for an
26 increase to 10 CEQ FTEs. While it would be speculative at this

1 time to determine whether 10 is an appropriate number given the
2 stronger role CEQ will have in this Administration, it is a number
3 that we believe to be a comfortable starting point, as it will
4 allow CEQ to provide leadership in support of the President's
5 environmental initiatives, and will further provide for fuller NEPA
6 oversight activities on a more detailed basis.

7 4. Ray Clark's status as acting chair pursuant to the
8 provisions of the Vacancy Act would have expired on June 9;
9 however, the President's submission to the Senate of a nominee for
10 CEQ Chair is imminent. To retain consistency and avoid any
11 confusion, Mr. Clark, who along with the staff has kept the CEQ
12 train running in an exemplary fashion, will remain in an acting
13 capacity until the nominee's Senate confirmation. It would be
14 premature to release the name of the nominee until all appropriate
15 vetting has been completed; however, the nominee strongly supports
16 this Administration's commitment to environmental protection, and
17 in furtherance of this commitment, advocates incorporating NEPA
18 values into the federal agency decisionmaking process.

19 We appreciate the opportunity to respond to your inquiries,
20 and trust that this letter serves to satisfactorily address all
21 your concerns. This Administration is committed to working towards
22 greater environmental protection; our commitment to a stronger CEQ
23 is one more step in achieving that goal.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

DATE:

TO:

Matt G.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages ▶ 6

To	From
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LEG. AFFAIRS	
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NSN 7540-01-317-7368

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GENERAL SERVICES ADMINISTRATION

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MESSAGE: Draft response to Clinger's
letter regarding CEQ's status

Resend

FROM:

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