



June 14, 2004

Dear Representative,

Re: Opposition of American Rivers and Trout Unlimited to HR 4513.

Since 1969, the National Environmental Policy Act (NEPA) has served as our nation's fundamental environmental statute. In a counterproductive proposal, Representative Richard Pombo (R-CA) has introduced H.R. 4513, which would exempt a large class of energy projects from complying with NEPA's core functions, under the guise of supporting "renewable energy." River conservation and recreation interests strongly support the increased use of solar, wind, and other truly renewable sources of energy but urge members of the House to VOTE NO to this blanket exemption from our nation's landmark environmental law.

H.R. 4513 would gut NEPA's essential environmental impact and alternative considerations for potentially destructive projects.

H.R. 4513 provides a broad exemption from NEPA for "renewable energy" projects, which are defined as anything other than nuclear power or the combustion of fossil fuels, including but not limited to solar, wind, geothermal, or tidal forces. This broad definition could include high impact sources such as the construction and ongoing operation hydropower dams or waste to energy incinerators. Because the bill distinguishes fossil fuel combustion, even fossil fuel energy projects such as oil and gas drilling, pipeline citing, and other non-combustion activities could be considered "renewable" under this definition.

In a total rewrite of NEPA, the bill requires federal agencies to identify and analyze **only** the energy project proponent's alternative and the no action alternative when drafting an environmental assessment or impact statement. Federal agencies are prohibited from identifying or analyzing any other alternatives, even in the interest of public health and safety. The bill then strips the public's right to comment on alternatives other than the project proponent's and limits that public comment to 20 days!

The purpose of NEPA is to empower citizens by informing them about how federal actions may affect the human and natural environment. NEPA ensures a wide-ranging analysis of the economic, social, health and safety, and ecological consequences of government actions, providing transparency and ensuring better decision making. H.R. 4513 would surrender those benefits and force the public to consider only projects

presented by energy developers or agencies themselves, absent meaningful oversight or review.

H.R. 4513 could hasten constructive of destructive and ill-conceived hydropower dams.

River conservation interests object to any exemptions from NEPA and are particularly alarmed by granting this exemption to hydroelectric dam projects. If enacted, H.R. 4513 would allow hydropower developers to propose the construction of new hydropower dams on almost any river in the nation. Agencies predisposed to support such proposals could take advantage of the limited analysis and transparency and those opposed would have limited evidence available to oppose the projects. With more than 75,000 dams in this country, our rivers already suffer from a legacy of dam building that has left them perilously fragmented.

H.R. 4513 would undermine current efforts to improve operations of existing hydropower dams.

Exempting existing hydroelectric dams from NEPA is equally appalling. Over the next six years the licenses for more than 400 dams across the nation will expire, requiring owners to seek a "relicense" of their dams from the Federal Energy Regulatory Commission (FERC). Relicensing just like licensing original dams, is an opportunity for regulators and the public to consider anew our commitment of a public resource. New licenses can include measures for improved river flows and lake levels, new fish passage, protection of water quality, and enhancement of recreational opportunities. Because they were last licensed in the 1950s, most of licenses expiring today have never undergone a NEPA environmental analysis or been subject to basic environmental laws like the Clean Water Act or Endangered Species Act. These hydropower projects are incredibly complex and multifaceted with interests coming from many different sides and require consideration of a broad range of alternatives.

For example, a single license for 11 dams on the Catawba-Wateree River in North and South Carolina, affecting more than 350 miles of river and thousands of acres of lands and generating over 800 megawatts, is set to expire in 2008. Hundreds of stakeholders are organized to weigh in on the future operations of this project. Lake homeowners have significant concerns about land management, water quality, and reservoir levels. Hunting and fishing interests are interested in river flows, fish passage, and wetlands protection. American Indians want to ensure that project operations minimize their impact on archaeological resources. Municipalities want to ensure protection of municipal water supply and waste water assimilation. Each of these interests deserves careful analysis and an equal voice. H.R. 4513 would rob them of that. Being forced to consider and comment only on the applicant's proposal cannot possibly satisfy all stakeholders and makes it virtually impossible for FERC to establish a balance that is in the public interest.

Also subject to this exemption are the ongoing operations of dams owned by federal agencies like the US Army Corps of Engineers (Corps), the Bureau of Reclamation (BOR), or the Tennessee Valley Authority (TVA). These projects typically have multiple purposes of power production, water supply, navigation, or irrigation and undergo periodic review of their operations to ensure that they are best meeting their Congressionally authorized purposes. Limiting the scope of environmental review can unnecessarily bias that review and future operations in favor of one project purpose over others.

H.R. 4513 would undermine current efforts of American Rivers and Trout Unlimited to work cooperatively with FERC and the hydropower industry to relicense existing hydropower dams.

We are not anti-hydropower and have been party to more than 100 settlements that protect environmental and recreational interests while allowing the continued operation of tens of thousands of megawatts of power. Over the past five years, FERC has issued NEPA documents for 193 projects, which continue to generate thousands of megawatts of power. Almost all of these analyses considered multiple alternatives and provided for full and open public comment period. Because the impacts of hydropower on rivers and surrounding communities can be complex and affect interests ranging from irrigation to endangered species, it is critical to have a reasonable range of alternatives to consider when evaluating these projects.

This bill approaches the world as if energy projects were black and white, acceptable or not. In the real world, where we work every day, there are subtleties and nuances and a variety of interests to consider and even the best intentioned proponent of an energy project does not always know best. NEPA empowers the public and ensures transparency, improving energy projects and protecting the public in the long run.

Please reject this ill-conceived effort to squash public debate and good scientific analysis.

VOTE NO ON H.R. 4513.

Sincerely,

Andrew Fahlund
American Rivers
Ph: 202-347-7550

Steve Moyer
Trout Unlimited
Ph: 703-284-9406