

Edward A. Boling
Associate Director for the National Environmental Policy Act
Council on Environmental Quality (CEQ)
730 Jackson Place NW
Washington, DC 20503

Comment by Californians for Population Stabilization (CAPS) in Response to the CEQ's Request for Comments on its Proposed Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, CEQ 2018-0001

Dear Mr. Boling:

Californians for Population Stabilization (CAPS) is a non-profit organization that works to formulate and advance policies and programs designed to stabilize the population of California, the U.S., and the world, at levels that will preserve the environment and a good quality of life for all. CAPS's founders, board members, and advisory board members have included famous environmentalists, such as David Brower (first executive director of the Sierra Club and founder of Friends of the Earth); authors Paul Ehrlich and Anne Ehrlich (*The Population Bomb* and *The Population Explosion*); Garrett Hardin (author of *Tragedy of the Commons*); and Carl Djerassi. This comment relates to the CEQ's Question 5 "Should CEQ's NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decision makers and the public, and if so, how?" When CEQ updates its regulations, it should revise them to clarify that all agencies implementing immigration programs must incorporate analysis of the environmental effects caused by the mass entrance and settlement of foreign nationals into the United States. Our federal immigration programs clearly have significant effects on the environment because of their enormous effect on population growth. The environmental effects of immigration are therefore clearly a significant issue relevant to the public and decision-makers.

The core purpose of NEPA is to ensure that, before a federal agency undertakes a federal action, its decision makers consider the range of potential environmental impacts the action may have on the environment. NEPA embodies the nation's policy of ensuring that decisions affecting the human environment are made with eyes wide open and in full view of the public so that all stakeholders may understand the implications of federal actions on the natural resources that we all depend on. NEPA's procedural requirements apply to all federal agencies in the executive branch.

NEPA expressly recognizes Congressional concern for "the profound influences of population growth" on "the natural environment[.]" 42 U.S.C. § 4331(a). Through NEPA, Congress directs, in relevant part, that the Federal Government shall:

use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may--

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible an environment which supports diversity and variety of individual choice;

(5) *achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities*

42 U.S.C. § 4331(b) (emphasis added).

Immigration, that is, the entrance and long term settlement of mass numbers of foreign nationals into the United States, has had, and is projected to have in the future, a substantial influence on the size of the US population, and particularly on the size of the population of California. Population growth unquestionably has environmental impacts. California's population nearly doubled from 1970 to 2015, going from approximately 20 million to 39.6 million. Most of that growth resulted from immigrants and their children.¹ Today, nearly all of California's population growth comes from immigration. That enormous population growth has put major strains on California. More population growth has meant more pollution, more cars, more trucks and buses on our roads, less green space, more chemicals, trash and runoff cascading into our streams, lakes and oceans, more damage to California's biodiversity (we are recognized as one of only 25 biodiversity hot spots in the world with many species of flora and fauna extinct or in danger of becoming so), and more and more pressure on declining water supplies. And while these population-oriented strains are more pronounced in California, the changes are occurring all across America.

¹ Steven A. Camarota & Bryan Griffith, *By State: Number Immigrants and Their Minor Children*, Center for Immigration Studies, <https://cis.org/Camarota/State-Map-Number-Immigrants-and-Their-Minor-Children>

But despite the clear environmental impacts of immigration, none of the agencies that implement our immigration programs have ever analyzed the environmental impacts caused by those programs. None of the NEPA procedures of any of the agencies that regulate immigration begin to even address whether there are any environmental impacts to be analyzed. Such neglect of immigration, one of the most environmentally significant federal policies carried out by our national government, is arbitrary and capricious.

CAPS, represented by the Center for Immigration Studies, is currently one of the plaintiffs in a case challenging this failure to follow NEPA by the Department of Homeland Security (DHS), which is one of the main agencies with a mandate over immigration. The case is *Whitewater Draw Natural Resource Conservation District et al v. Kirstjen Nielsen et al*, 16-cv-2583, filed in the Southern District of California.

In *Whitewater Draw NRCD v. Nielsen*, CAPS and our co-plaintiffs make five claims. The first challenges the NEPA procedures DHS adopted in 2014 because they fail to address the entry and settlement of foreign nationals, that is, immigration, into the United States, despite immigration being a major component of DHS' statutory mission. The second challenges the adoption of eight particular programs without any environmental review: 1) employment-based immigration; 2) family based immigration; 3) long-term nonimmigrant visas; 4) Parole; 5) TPS; 6) refugees; 7) asylum; and 8) Deferred Action for Childhood Arrivals. The third challenges DHS' improper adoption of an overbroad "categorical exclusion" in its NEPA procedures. The fourth challenges DHS' use of the abovementioned categorical exclusion on four separate occasions when it adopted immigration related regulations as arbitrary and capricious. Finally, the fifth challenges DHS' environmental assessment of its 2014 response to the Unaccompanied Alien Children (UAC crisis) on the southwest border for failing to consider any of the environmental impacts of immigration.

To illustrate how immigration causes environmental impacts we hired a sustainability expert for the case, Dr. Philip Cafaro, who wrote a report with a number of significant findings about the impacts of population on the environment. His findings are summarized below:

Consequences of Population Growth in the U.S. As Documented by Dr. Cafaro

- **Urban Sprawl**

Population growth is responsible for one of the leading environmental problems across the United States: urban sprawl, that is, new development on the fringes of existing urban and suburban areas. Sprawl increases overall energy and water consumption and air and water pollution, and decreases open space and natural wildlife habitat, endangering the survival of many species. From 1982 to 2010, a period of massive immigration, 41.4 million acres of previously undeveloped urban land was built on to accommodate the United States' growing cities and towns—an area approximately equivalent to the State of Florida. The future loss of the undeveloped land

remaining in the United States, due to unrelenting population growth, will produce significant environmental consequences. The ongoing loss of open spaces, habitats, and wilderness to unrelenting population growth is a source of anguish to those who love the wilderness.

- **Biodiversity Loss**

Population growth also threatens to accelerate biodiversity loss and the extinction of animal and plant species. The United Nations' Secretariat of the Convention on Biological Diversity estimates that humanity may be causing the extinction of one out of every three species on Earth in the next one to two hundred years. Conservation biologists agree that the most important "direct drivers" of biodiversity loss are: habitat loss, the impacts of alien species, over-exploitation, pollution, and global climate change. All five are caused by increased human population and the increased human activities associated with human population growth.

- **Carbon Emissions**

The carbon dioxide ("CO₂") emissions produced in the United States also are increasing because of immigration-driven population growth. Furthermore, those foreign nationals that settle in the United States produce an estimated four times more CO₂ in the United States than they would have in their countries of origin. The estimated 637 tons of CO₂ produced annually by U.S. immigrants is 482 million tons more than they would have produced had they remained in their home countries. The impact of immigration to the United States on global emissions is equal to approximately 5 percent of the increase in annual world-wide CO₂ emissions since 1980. That is 5 percent of total global CO₂ emissions, not 5 percent of U.S. emissions. These numbers do not even include the CO₂ impacts of children born to United States immigrants.

- **Water Withdrawal, Particularly in California**

Because a greater population uses more water, population growth also results in a higher aggregate water use, putting increased pressure on water systems, including rivers and underground aquifers. Water taken for human consumption is necessarily removed from an ecosystem, leading to a host of environmental impacts. When too much water is taken from these ecosystems for consumptive use by human beings, there may not be enough water left behind to perform these critical ecosystem services and functions.

The environmental impacts resulting from population-based demands for water are most vividly illustrated in the state of California. The nation's most populous state also tops the nation in terms of water withdrawal. California has also been experiencing a severe, multi-year drought. Governor Jerry Brown declared statewide mandatory water restrictions for the first time in California's history, ordering towns and cities to reduce their water use by 25

percent. California's droughts have led the state to overdraft its underground aquifers, with potentially devastating environmental consequences. Water quality is also an issue. Numerous human activities can cause water pollution. For instance, the introduction of excess nitrogen and phosphorus fertilizers into streams, rivers, and lakes encourage explosive growth of "algal blooms," ultimately leading to eutrophication and the destruction of these ecosystems and the species that inhabit them.

NEPA Should Study the Causes, not Just the Consequences

Surveying the "purposes and needs" sections of recent federal and state agency Environmental Impact Statements (EISs), Dr. Cafaro found that it is clear that the government fully accepts that population growth is the cause of the environmentally impactful projects it analyzes. These recent EISs cite anticipated or planned population growth as creating the need for a myriad of environmentally harmful new infrastructure, for example, transit projects, such as the creation of light rail systems, new airports, and projects for road-widening and road construction; energy projects, such as coal and natural gas development, new power plants, and pipelines; and water supply projects, such as new dams and reservoirs. In addition, many other kinds of developments, such as new schools and housing projects, are only needed because of population growth, driven by immigration.

All these consequences of population growth are studied under NEPA. That NEPA should mandate analysis of the inevitable *consequences* of population growth but not the *causes* of population growth turns the purpose of NEPA on its head. For NEPA to meet its promise of ensuring the government makes environmentally sensitive decisions, CEQ must direct all agencies implementing immigration programs or policies to stop ignoring immigration in their NEPA procedures. Now that the CEQ is planning to update and clarify its NEPA regulations, it has the opportunity to stop this agency failure, which goes beyond DHS alone.

Sincerely,

Ric Oberlink
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