

required under NEPA. NEPA's environmental review process has two major purposes: (1) for agencies to make better informed decisions; and (2) for other interested agencies and citizens alike to have an opportunity to participate and provide input in the review process. Courts have repeatedly interpreted the statute as requiring agencies to grant meaningful and adequate participation to the public by disclosing all non-exempted documentation the agency used and by allowing the public to submit comments in a process that guarantees that the agency will take into account the public's comments.

In light of these obligations, USACE has repeatedly promised that it will take into account all the comments submitted by the people of Puerto Rico. A 30-day period is not enough time to give the people of Puerto Rico a meaningful opportunity to read, analyze, evaluate and then comment on this 110-page long Draft EA for this highly complex and controversial project. Moreover, the USACE has overlooked the fundamental fact that Puerto Rico is a Spanish-speaking nation and the Draft EA, a highly technical document, and other key documents are written in the English language. If affected and concerned citizens are not able to read the key documents under review, their participation will not be meaningful and adequate as the statute requires.

Through NEPA, Congress ordered the Council on Environmental Quality (CEQ) to issue regulations governing federal agency implementation of the NEPA environmental review process. These CEQ regulations are binding on all federal agencies. Section 1506.6 of the CEQ regulations, regarding public involvement, states that agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

1. . . .

2. . . .

3. In the case of an action with effects primarily of local concern the notice may include:

(i) . . .

(ii) . . .

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) . . .

(c) . . .

(d) Solicit appropriate information from the public.

(e) . . .

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public . . . [emphasis added]

When a Federal provision requires "diligent efforts to involve the public", to "inform those persons [. . .] who may be interested or affected", and to "solicit appropriate information from the public" in a Spanish-speaking nation like Puerto Rico, regarding a project so controversial and of such a scope and magnitude as Va Verde, the only way to comply with the provision is by providing the information in the common language spoken. Likewise, in the case of an action with effects primarily of local concern, as in the case of Va Verde, section 1506.6 (b)(3)(iii) orders the agency to follow "the affected State's public notice procedures for comparable actions" which for Puerto Rico would be a draft EA in the Spanish language.

CEQ regulations offer additional reinforcement in order to guarantee an adequate public participation. For instance, section 1502.8

of the CEQ guidelines state that "[e]nvironmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them" [emphasis added]. Courts have interpreted this "plain language" provision as to require Federal agencies to provide the public with comprehensive information regarding environmental consequences of a proposed action and to do so in a readily understandable manner. See *Klamath-Siskiyou Wildlands Center v. Bureau of Land Management*, 387 F.3d 989 (2004), "While the conclusions of agency expert are entitled to deference, National Environmental Policy Act (NEPA) documents are inadequate if they contain only narratives of expert opinions, and the documents are unacceptable if they are indecipherable to the public"; *Earth Island Institute v. U.S. Forest Service*, C.A.9 (Cal.), 442 F.3d 1147 (2006), *certiorari denied* 127 S.Ct. 1829, 549 U.S. 1278, 167 L.Ed.2d 318 (emphasis added), "A final environmental impact statement (FEIS) must be organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under the FEIS" [emphasis added]; *Oregon Environmental Council v. Kunzman* 817 F.2d 484 (1987), "Readability requirement of Council on Environmental Quality regulation mandates that environmental impact statement be organized and written so as to be readily understandable by governmental decision makers and by interested nonprofessional laypersons likely to be affected by actions taken under the environmental impact statement" [. . .] "Upon review of environmental impact statement, parties may introduce evidence concerning reading level of affected public and expert testimony concerning indicia of inherent readability. National Environmental Policy Act of 1969, §102, 42 U.S.C.A. §4332; 5 U.S.C.A. §706(2)(A, D)" [emphasis added]. See also *National Resources Defense Council, Inc. v. United States Nuclear Regulatory Comm'n*, 685 F.2d 459, 487 n. 149 (D.C.Cir.1982); *Baltimore Gas & Elec. Co. v. NRDC*, 462 U.S. 87 (1983); and *Warm Springs Dam Task Force v. Gribble*, 78 F.Supp. 240, 252 (N.D.Cal.1974), *aff.*, 621 F.2d 1017 (9th Cir.1980). These requirements for EISs apply equally to EAs, as indicated in the CEQ regulations' use of the term "environmental documents" rather than EISs alone.

In the case of Puerto Rico, a Draft EA that is highly technical and written in the English language is "undecipherable" and not "readily understandable" in order be properly assessed and commented by lay persons whom in their wide majority are not fluent in the English language.

#### ATTORNEY GENERAL ERIC HOLDER MUST RESIGN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. BOUSTANY) for 5 minutes.

Mr. BOUSTANY. Mr. Speaker, U.S. Attorney General Eric Holder must resign immediately. After months of evading tough questions and giving unclear answers about Operation Fast and Furious, it now appears the Justice Department's top official has contradicted his own testimony given before Congress.

Under Operation Fast and Furious, the Bureau of Tobacco, Alcohol, and Firearms allowed "straw" purchasers to buy at least 1,400 weapons, despite the fact it knew that these weapons

would likely end up in the hands of violent Mexican drug cartels. The ATF lost track of the guns after they were sold to criminals. Since then, many have been used in hundreds of crimes on both sides of the border, including the murders of a Border Patrol agent in Arizona and an immigration officer at the U.S. embassy in Mexico City.

Why did the Attorney General allow for the transfer of guns across the border without working in conjunction with Mexican authorities when he knew the ATF was unable to trace them? That's a very important question that must be answered. This botched program should never have been authorized in the first place. Attorney General Holder should resign over his failure and his evasive and contradictory testimony to the United States Congress.

#### THE REINS ACT AND MINE SAFETY

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. GEORGE MILLER) for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, later today, the House will consider the REINS Act, which is legislation designed to make sure that in a Republican-controlled Congress, no new regulations would be put into effect, whether they deal with clean drinking water, clean air, child safety, the safety of children when they play with their toys, the drugs that so many citizens need to take to maintain their health, or occupational safety at the workplace. All of that would be destroyed under the REINS Act.

You might ask yourself what would society look like? Well, we had a preview of what that society looks like yesterday when the Mine Safety and Health Administration released its report on the Upper Big Branch mine. What that society looked like to these miners and to their families was 29 dead coal miners, because the Massey Corporation was basically allowed by its board of directors to evade the basic regulations that were in place to protect the miners.

Although the miners don't have whistleblower protections, we saw that Massey was able to intimidate the workers every day not to report safety violations, not to write up safety violations, not to report things that needed to be repaired, because the chairman of the board told them the priority was the production of coal, not the safety of the workers.

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Produce the coal or get out is what he told them. So they were not able to participate in their own safety when they saw a violation or they saw a problem that caused danger in the mine.

They also were able to circumvent the right of the mine safety inspections

in the mines because they gave advance warnings. They were told if a Federal mine inspector comes onto the property, you must give advance warning to the people in the mine so they can divert the mine inspector away from the problems in the mine, take up their time while we can fix them, or he'll run out of time to inspect the mine. There's regulations against that. There's laws against. They avoided those.

Then they kept two sets of books so that the mine regulators couldn't see the real level of violations in the mines. That's what it looks like when you don't have regulations. That's what it looks like when you don't have enforcement.

And it's the conclusion of the mine safety report that mirrors one that was done by the State government. The conclusion is that the tragic death of 29 miners and serious injuries of two others in the Upper Big Branch mine were entirely preventable—entirely preventable—had regulations been enforced in that mine, had this company not been allowed to go rogue and ignore the regulations that are there to protect the miners' lives.

We must now understand what that means to the American public, what it means to these families.

What could have been contained, what could have been contained as a mine or a coal dust explosion or a localized methane gas explosion became an explosion that traveled 2,000 feet per second—2,000 feet per second. There is no miner that could get out of the way of that act.

And what happens at the end of that world without regulation, where you don't have to put up with paying fines, where you can clog the courts with appeals? When the Massey Company was sold, the board of directors that allowed this to happen, the executive officers that directed this to happen, the officers walked away with \$90 million in bonuses; the board of directors walked away with \$19 million in bonuses. And Don Blankenship, the CEO of the company that wrote the memo that said it's production of coal or get out, it's not safety, walked away with \$86 million.

And now get this: Don Blankenship, the CEO, now wants to go back into the coal business after killing 29 miners. And whether it's the State of Virginia or the State of West Virginia or Kentucky or anywhere else, the suggestion is that they might be able to give him a permit to open up a mine. Twenty-nine miners are dead, violations of law, a criminal corporate culture, and somebody else says that they might be able to go back into the mines.

You will not reignite the American Dream for workers in this country if you take away their rights at work. You will not reignite the American Dream for the middle class if they have no rights at work, if they're subjected to this. For these families who lost the 29 members of their families, they're

crushed. They're crushed. But you can't do that by eliminating the regulations. It's the regulations in place that have saved miners' lives; but it's the avoidance of the regulations, the ignoring of the regulations, and it's the failure of this Congress to introduce tough sanctions.

When you obstruct a Federal safety investigation, it should be a felony. Somebody should go to jail. When you obstruct the right of a worker to blow the whistle on an unsafe procedure, there's got to be a strict fine for that. That's how we reignite the American Dream.

We've got a lot of work to do in this Congress, but you can't do it by stopping all regulations that protect our families, that protect our communities, that protect the workers in America today.

#### PEARL HARBOR

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the sun was lazily rising on the horizon. It was around breakfast time on a stunning Sunday morning. It was quiet, peaceful, calm. People felt secure. There was a small tropical breeze as the American flag was being raised on a nearby flagpole.

It was this day that Luke Trahin, a 22-year-old sailor from southeast Texas, noticed large formations of aircraft darkening the glistening sky. He kept watching in awe until suddenly the aircraft broke formation, dove from the sky, and unleashed a fury of deadly, devastating bombs and torpedoes on a place called Pearl Harbor in the Pacific. It was this day, 70 years ago this morning, when Luke Trahin and his fellow sailors, soldiers, and marines saw war unleashed upon America. It was December 7, 1941.

The Japanese had caught America by surprise and took advantage of an unprepared nation. And after the smoke cleared on that morning of madness, 98 Navy planes and 64 Army aircraft were destroyed. Luke's unit, Patrol Wing One, lost all but three of its 36 aircraft. 2,471 Americans, servicemen, and civilians, were killed by this unwarranted invasion of terror from the skies.

The pride of the United States Navy, the battleships—West Virginia, California, Oklahoma, Tennessee, Utah, Maryland, Nevada, and Arizona—were trapped in the harbor. They made easy targets for the Japanese pilots. The sailors onboard these battle wagons fought with the courage of an entire legion of warriors when they were attacked by a skillful, fanatical, and tyrannical enemy. All of these fierce U.S. Navy battleships were sunk or damaged. Their guns, Mr. Speaker, are now silent.

The hull of the USS Arizona became the sacred graveyard in the peaceful Pacific for more than 1,177 American sailors and marines. I have seen, Mr.

Speaker, the oil that still seeps to the surface from the hull of the battleship Arizona.

Luke Trahin and his Navy buddies in Patrol Wing One quickly got organized, prepared, and waited for 2 days for the expected land invasion by the Japanese. It never came. But America was at war. It was World War II, and the war was long. It spread from the Pacific to Europe to Africa to the Middle East to Asia. The Japanese, then the Nazis, seemed undefeatable. But even the Japanese were concerned about the spirit of America. The Japanese commander of the Pearl Harbor invasion remarked that what Japan had done was wake a sleeping giant.

World War II was hard. Millions served in uniform overseas; millions served on the home front; all sacrificed for the cause of America. The Nation woke from a somber sleep of neutrality and, with our allies, defeated the tyrants that would rule over the world. That was a time when Americans put aside all differences and united to defend freedom in our Nation. When the war was won, over 400,000 Americans had given their lives for this nation.

Mr. Speaker, I'm always intrigued by the stories of those war heroes and the folks of that generation. There isn't one of them that cannot recall the exact moment and place they were when they heard the news of Pearl Harbor. Both of my parents, barely teenagers at the time, still talk about what they were doing when they heard on the radio that broadcast that Sunday morning about the invasion.

Until September 2011, this was the deadliest attack on American soil. "December 7, 1941, a date that will live in infamy." Those were the words of President Franklin Roosevelt that became forever embedded in the minds of patriots across our land igniting and launching a nation into the fiery trenches of battle throughout the world.

Those of that Greatest Generation proved that when freedom of this Nation is threatened, our people will stand and fight. They will bring the thunder of God upon our enemies. Defending freedom and liberty was the battle cry of the sailors, marines, and soldiers that died 70 years ago at Pearl Harbor.

We remember December 7, 1941, and the Americans who stood tall and kept the flame of America burning brightly. They were a remarkable bunch of people. They were the Americans.

My friend, Petty Officer Luke Trahin, stayed in the United States Navy for 38 years, either on active or reserve status. He wore his uniform every Memorial Day, every Veterans Day, and spent a lot of time speaking proudly about this country. He died 4 years ago on December 5, 2007. He was 89 years of age.

And that's just the way it is.