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**BY ELECTRONIC MAIL**

Catherine Shuman  
Council on Environmental Quality  
722 Jackson Place, N.W.  
Washington, D.C. 20503

Re: Comments on Chapter III – Interagency Guidelines  
For Applicability/Implementation of the Principles and Requirements for  
Federal Investments in Water Resources

Dear Ms. Shuman:

Thank you for the opportunity to provide comments on the Interagency Guidelines for Federal Investments in Water Resources. Mission H<sub>2</sub>O is a stakeholder group focused on water supply issues in Virginia. Our members are water users (both industrial and agricultural), water providers, and water service professionals. The goal of Mission H<sub>2</sub>O is to ensure that sound policy and regulatory decisions are made on issues impacting water supply and water resource management. While our principal focus is water management developments in Virginia, we also address national policies and guidance when they have the potential to impact Virginia water management decisions.

Mission H<sub>2</sub>O supports development of a federal policy to guide decisions about the environmental benefits and impacts of water resource projects carried out by the U.S. Army Corps of Engineers. Our concern is that the Interagency Guidelines apply to far more than U.S. Army Corps projects and are imprecise and unclear about the how and when they apply, as well as the role of the federal government in water supply.

In addition to the specific comments on the Draft Guidelines, provided below, Mission H<sub>2</sub>O notes that the Water Resources Development Act of 2007, which authorizes the development of the Principles and Guidelines, states that the revised principles and guidelines are to “apply to water resources projects carried out by the Secretary.” Public Law 110-114 § 2031(b)(6). Secretary is defined in Section 2 of the Act as the Secretary of the Army. Expanding the applicability of the Guidelines to additional agencies, and to apply to “federal investments” rather than specific projects to be carried out by the Corps of Engineers, appears to be beyond the scope of the revision required by the Act.

Likewise, the Act states that the goal of the Principles and Guidelines is to ensure that water resources projects reflect national priorities, encourage economic development and protect the environment by (1) seeking to maximize sustainable economic development; (2) seeking to avoid the unwise use of floodplains; and (3) protecting and restoring the functions of natural systems. *Id.* at § 2031(a). The scope of the draft Guidelines appears significantly broader than that contemplated by the Act.

### **Specific Comments**

Page 2 of the Interagency Guidelines states that the Guidelines are to be considered within the framework of the applicable statutes, laws, regulations and policies. The governing laws of the agencies subject to the Guidelines all include statements that the allocation of water and water quantity management are the province of states and localities. The Guidelines should explicitly acknowledge that water quantity and allocation issues remain within the domain of state and local governments. While Mission H<sub>2</sub>O supports an evaluation of the impact of a given federal project on water quantity, water quantity should not be the driver for federal projects or investments.

Along these lines, it is inappropriate for the Guidelines to require that alternative actions or plans relating to water supply first consider water efficiency and water reuse and reclamation. Water supply management decisions must be viewed in the context of the local need, the economics of the project, and the state and local strategy for optimizing the available water supply. Efficiency measures alone are not an appropriate substitute for new water resource development projects. Moreover, water reclamation and reuse projects can themselves exacerbate local water shortages by removing discharges that are significant contributors to

downstream flow. The Guidelines should not include presumptions such as the preference for reuse. The potential value of a water reuse project will vary by region based on local economic and environmental factors.

It is unclear what “investments” are subject to the Interagency Guidelines. The CEQ Website states that the Guidelines will be used to “evaluate and select major water projects, including projects related to navigation, storm resilience, wetland restoration and flood prevention.” As noted above, the Water Resources Development Act relates solely to water resource projects carried out by the U.S. Army Corps of Engineers. No such limitation is found in the Guidelines.

The Principles and Requirements document states that they apply to investment decisions such as grant programs, funding programs, studies or investigations leading to construction/modernization of infrastructure; and proposals/plans affecting management of “federal assets” such as national parks. The Guidelines themselves state that they do not apply to regulatory decisions, research or monitoring, or emergency actions. These statements are not consistent. It is not clear whether the investments subject to the Guidelines are the decisions about federal funding of federal projects, federal funding of state, local or private projects, or funding of certain programs, studies, etc., or if the investments relate solely to Corps projects.

It is also unclear how and when the Guidelines apply. Is this an annual evaluation done in conjunction with the budgeting process, or is compliance with the Guidelines evaluated on an investment-by-investment basis? Once an investment decision is made, does it get evaluated each year, or is the initial evaluation considered sufficient? The Guidelines should clarify how and when the required evaluation takes place, as well as how the evaluation is to be documented.

The application of the Guidelines appears to impose significant new requirements on a range of water resources projects. While the goals of the Guidelines include accelerating project approvals, reducing costs, and supporting water infrastructure, their implementation may have the opposite effect and result in significant burden on local users of federal projects. For example, applying the Guidelines to a major dam repair or rehabilitation project where local users have pre-existing agreements, including cost-sharing arrangements, with the U.S. Government relating to the funding of ongoing operation, maintenance and rehabilitation could delay necessary repairs and upset longstanding agreements.

Because it is unclear how and when the Guidelines apply, it is also unclear how the alternatives analysis required by the Guidelines is to be completed. Is the evaluation of one “investment” versus another, or are the alternatives to be considered other options for achieving the same “investment” goal? Who develops the alternatives? Page 18 of the Guidelines discusses communication of the alternatives, but does not explain to whom the alternatives are being communicated. What role does the public have in this process? The Guidelines should clearly explain how the alternatives process will work.

Several of the evaluations outlined in the Guidelines appear to be duplicative of evaluations that will take place in the permitting context. Are the investments contemplated by the Guidelines independent of the projects themselves? Rather than create multiple layers of evaluation, the Guidelines should include for a streamlined evaluation, either when the investment decision is being made or on the permitting side, to avoid unnecessary duplication.

### **Conclusion**

Mission H<sub>2</sub>O supports the development of Guidelines providing criteria for approval of Corps projects consistent with the priorities identifies in the Act. The scope of the draft Guidelines appears to exceed what was intended by the Water Resources Development Act of 2007, and creates confusion about how and when the Guidelines apply.

Thank you for your consideration of these comments.

Sincerely,

Handwritten signature of Andrea Wortzel in blue ink, including the initials "/cem".

Andrea W. Wortzel

cc: Mission H<sub>2</sub>O Members