

# Exhibit 2

# SOUTHERN ENVIRONMENTAL LAW CENTER

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September 5, 2018

## **VIA E-MAIL AND U.S. MAIL**

Freedom of Information Officer  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, D.C. 20503  
[efoia@ceq.eop.gov](mailto:efoia@ceq.eop.gov)

### **Re: Freedom of Information Act Request: Proposed NEPA Rulemaking**

FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and 40 C.F.R. § 1515 *et seq.*, the Southern Environmental Law Center (“SELC”) respectfully requests all records in the possession of the Council on Environmental Quality (“CEQ”) that in any way relate to CEQ’s proposed rulemaking to update CEQ’s implementing regulations for the procedural provisions of the National Environmental Policy Act (“NEPA”), including but not limited to all records that in any way relate to CEQ’s Advance Notice of Proposed Rulemaking (“ANPRM”) titled “Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act,” published in the *Federal Register* on June 20, 2018. 83 Fed. Reg. 28591.

For the purposes of this request, the term “records” includes all written, printed, recorded, or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of CEQ. Please provide any electronic records in native file format. Please also include all responsive records generated up to the date this request is filled.

The disclosure of the requested materials would be in the public interest because (1) it is likely to contribute significantly to public understanding of CEQ’s activities in relation to its review and revision of its NEPA regulations, which could have profound impacts on the environmental review process for federal actions, and (2) is not in the commercial interest of SELC.

SELC is a 501(c)(3) non-profit organization that works to protect the natural resources of the Southeast. For more than three decades, SELC has relied on the procedures set forth in NEPA to help protect communities from poorly planned projects that can harm health, waste taxpayer money, and impact important natural resources in the Southeast. Now SELC is actively engaging with more than 50 groups around the Southeast to respond to this proposed rulemaking.

In response to the ANPRM, SELC engaged the public and encouraged citizens to submit comments. SELC also submitted its own comments on behalf of more than 50 groups across the Southeast. More information about SELC's efforts is available on our website, at <https://www.southernenvironment.org/news-and-press/news-feed/speak-up-for-the-right-to-speak-up>. The requested information will aid the public's ability to respond to changes CEQ proposes to make to its NEPA regulations.

We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). The disclosure of the requested materials would be in the public interest because it is likely to contribute significantly to public understanding of CEQ's activities and is not in the commercial interest of SELC or our clients. Courts have recognized that Congress intended FOIA's fee waiver to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our right to appeal a denial of our request for a fee waiver or reduction.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). Should our request be denied, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. Please contact me at (919) 967-1450 or [khunter@selcnc.org](mailto:khunter@selcnc.org) to arrange for inspection, copying, and electronic transmission of the requested documents.

Sincerely,

A handwritten signature in black ink, appearing to read "Kym Hunter", with a long horizontal flourish extending to the right.

Kym Hunter  
Senior Attorney