

explicitly allows the Corps to completely eliminate public comment on an EIS from members of the public, the applicant, and many other interested stakeholders. “During the process of preparing an environmental impact statement” the Corps “**may**”—but is not required to—request comments from the public, the applicant, or many Federal, state and Tribal entities.<sup>11</sup> The regulatory program Interim Final Rule, like the DOD NEPA Guidance, also makes it clear that the Corps does not have to publish a draft EIS.<sup>12</sup> This effectively eliminates all public comment on a draft EIS, as it is not possible for the public, Tribes, or other federal and state agencies to provide meaningful comments on a document they have not seen or that does not have a public comment period.<sup>13</sup>

## Conclusion

For at least the reasons highlighted above, our organizations urge the Corps to withdraw both Interim Final Rules, and in their place issue regulations that properly implement the National Environmental Policy Act.

Sincerely,

Bridgette Murray  
Executive Director

**Achieving Community Tasks Successfully**

Debra Campbell  
Chairperson  
**A Community Voice - ACORN**

Kevin Shockey  
Executive Director  
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<sup>11</sup> 33 C.F.R. 333.21(a)(3), 90 Fed. Reg. 29465, 29480 (July 3, 2025). “During the process of preparing an environmental impact statement” the Corps is required to request comments from “Any Federal agency that has specific statutory jurisdiction or special expertise identified in statute with respect to any environmental impact involved or is authorized to develop and enforce environmental standards” and from “Appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards.” 33 C.F.R. 333.21(a)(2), 90 Fed. Reg. 29464-65.

<sup>12</sup> 33 C.F.R. § 333.26, 90 Fed. Reg. 29482 (“During the process of preparing the environmental impact statement, the District Engineer may publish a draft statement or other materials that in their judgment may assist in fulfilling their NEPA responsibilities.”).

<sup>13</sup> The Interim Final Rule, like the prior Corps NEPA rules, does require the Corps to request public comment on the scope of the EIS when it issues a Notice of Intent to prepare an EIS.