

An Examination of Federal Permitting Processes
Subcommittee on Interior, Energy, and Environment
Committee on Oversight and Government Reform
U.S. House of Representatives

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Thank you Chairman Farenthold, Ranking Member Plaskett, and members of the subcommittee for the opportunity to testify on federal environmental review and permitting. It is a privilege to contribute to this committee's work.

In recent years, environmental review and permitting have come under sustained attack—often based on spurious claims about the length of time needed to complete federal reviews. The President's infrastructure plan is only the latest example.

The hard truth is that infrastructure projects cost money. Yet, when taken together, the President's budget and infrastructure plan call for cutting a \$1.40 from existing infrastructure programs for every \$1 of proposed expenditure. This net cut would reduce total construction activity. In Washington, everybody wants to go to the ribbon cutting, but nobody wants to pay the bill.

Instead of real spending, the President has proposed deep environmental deregulation. The White House and other opponents of environmental review paint a dire picture of a federal bureaucratic leviathan implacably churning out red tape to our collective detriment. If only, the argument goes, project sponsors didn't have to study the potential impacts of building, then everything would be cheaper, faster, better.

This tidy narrative is false. First, environmental review produces better projects and saves taxpayers money in the long run. History shows that building first and asking questions later often leads to irreparable social and ecological damage. Second, only a small fraction of infrastructure projects must complete a full review. And Third, project review times have fallen in recent years.

In 1969, Congress passed the National Environmental Policy Act, or NEPA, to address growing public concern over the serious community and environmental damage caused by government action, including the construction of new infrastructure projects. The fundamental goal of NEPA is to allow informed decisionmaking by providing the public with detailed information on the potential harms associated with infrastructure projects. These harms could include anything from the loss of wetlands to the destruction of historic buildings or damage to the social, economic, or cultural character of a neighborhood.

Failing to consider potential impacts from infrastructure projects is penny wise and pound foolish. Take, for example, the Kissimmee River in Florida. The river carries water south from Lake Kissimmee to Lake Okeechobee, which then releases the water into the Everglades and recharges the Biscayne aquifer that provides drinking water to millions of people in Miami and across south Florida.

In the early 1960s, prior to NEPA, the Army Corps reconstructed the 103-mile meandering Kissimmee River into a 56-mile, 300-foot wide drainage canal to reduce flooding. The resulting environmental

damage was so severe that Congress authorized the partial restoration of the Kissimmee River just 21 years after completion of the channelization project. When adjusted for inflation, the channelization cost \$194 million. The partial restoration will cost more than \$1 billion—a five-fold increase.

Opponents of review often argue that transportation projects—especially highways—face inordinate delays. In fact, only 4 percent of highway projects require a full environmental review. Since 2009, the average review time for major highway projects has fallen to 3.6 years. That may sound like a lot, but it's important to remember that mega-projects come with mega-complexities. By rushing environmental review, we increase the risk of funding infrastructure that will produce substantial social and environmental harms that could have been mitigated with a bit of forethought and planning.

The push for further environmental deregulation is especially troubling since Congress has already voted three times in the past six years to speed the review process. In fact, federal agencies have yet to promulgate regulations implementing many of the reforms to NEPA included within MAP-21, WRRDA, and the FAST Act. Moreover, the Trump administration has yet to appoint a director for the Federal Permitting Improvement Steering Council established by Title 41 of the FAST Act or to appoint a head of the Council on Environmental Quality. In short, Congress has granted the federal executive numerous administrative and regulatory powers to speed the environmental review process. These reforms need to be fully implemented and given time to work before making further changes to law.

Unfortunately, these facts haven't stopped the Trump administration from proposing to dramatically rollback review by shortening the statute of limitations for filing legal claims, allowing construction activity to begin before review completion, and limiting the scope of alternatives analysis. These and other proposed changes would lead to less community input and greater environmental harms, including dirtier air and water.

In many respects, the fight over NEPA is a fight about values and power. Environmental review is the process by which we value people, places, and the environment enough to try and minimize the harms from development. Review also serves to empower local communities, moving critical information and decision-making out from behind closed doors where planners and developers tend to operate. Yet, without adequate time to study a project or the ability to seek legal remedy when mitigation efforts are inadequate, the concept of community and environmental protection lose their meaning.

Weakening or eliminating environmental review would simply add to our fiscal burden by rushing construction of poorly-conceived projects that will require expensive remediation later. There are no shortcuts to fixing the nation's infrastructure backlog. The only real solution is for Congress to once again make the investments necessary to ensure our country can prosper and compete for decades to come.