

The Honorable Bruce Westerman
Chairman
House Committee on Natural Resources
Washington, D.C. 20515

The Honorable Jared Huffman
Ranking Member
House Committee on Natural Resources
Washington, D.C. 20515

RE: Letter for the Record on the House Committee on Natural Resources Full Committee Oversight Hearing titled “Permitting Purgatory: Restoring Common Sense to NEPA Reviews”

Dear Chairman Westerman, Ranking Member Huffman, and Members of the House Committee on Natural Resources,

On behalf of the undersigned organizations and our millions of members, we appreciate the opportunity to submit comments and materials on the Oversight Hearing “Permitting Purgatory: Restoring Common Sense to NEPA Reviews.” The National Environmental Policy Act (NEPA) has long been an absolutely essential tool to ensure that taxpayer dollars and public lands and resources are managed in a way that serves the public interest and our national policy of ensuring a healthful environment for present and future generations. The promise of the NEPA process is simple and is at the heart of democracy – government will consider the environmental and health impacts of its decisions, it will disclose those impacts to those affected, and it will ensure the public has a meaningful opportunity to weigh in on those decisions.

We know that much can be done to improve the implementation of NEPA and we have long supported both legislative and administrative efforts that are responsive to known causes of delay and bottlenecks in the review process. For over a decade, many of our organizations have called for better management and oversight of the permitting process generally and NEPA specifically. It has long been known that agencies suffer a chronic lack of resources, staff, and training to effectively and efficiently permit projects. We have likewise called for and supported legislation that modernizes the NEPA process by leveraging technology to allow agencies to coordinate better, share information more quickly, and more meaningfully engage the public. Major changes have been made over the last decade in these regards. Any conversations around ways to improve NEPA implementation must begin with an acknowledgement of what has already been done and what problems currently exist.

We are extremely concerned that current discussions around NEPA “permitting reform” oftentimes completely ignore these reforms that have occurred over the last decade. Many of the reforms, both legislative and administrative, have led to significant reductions in timelines. In January of this year, the White House Council on Environmental Quality (CEQ) issued [a factsheet](#) and an [updated report on environmental review timelines](#) that details these changes made across the government. Overall, the data shows that agencies have been completing more reviews significantly faster in recent years – in the case of the Department of Energy, timelines for Environmental Impact Statements [were cut in half over the previous administration](#). CEQ attributed this to a common-sense approach that aligned legislative reforms that increased funding and improved engagement with communities with better management and oversight of permitting at senior levels of government.

Any conversation around improving the permitting process under NEPA must acknowledge actions already taken. In particular, they must consider and evaluate the significant changes both Congress and the previous administration enacted, some of which our organizations supported and others which we did not. To facilitate the conversation we submit the following for the record:

FAST-41 (2015) – [Title 41](#) of the FAST Act, and commonly referred to as “FAST-41,” established the Federal Permitting Improvement Steering Council (Permitting Council), comprised of Deputy Secretaries or higher from over a dozen federal agencies and charged them with steering critical infrastructure projects, which require over \$200 million in investment, through the permitting process. The legislation established an abbreviated permitting scheme for major infrastructure projects and limited the statute of limitations for such projects to two years. The Executive Director of the Permitting Council during the first Trump administration noted that the Council had reduced timelines by 60% for permit approvals supporting [over \\$200 billion in infrastructure projects and the creation of over 32,000 jobs](#) and [testified to the fact that the Council “saved projects more than \\$1 billion in avoided delays”](#) in just the first few years of his tenure.

[Infrastructure Investment and Jobs Act \(IIJA\) \(2021\)](#) – Subtitle C of Title I of the IIJA included a litany of permitting reforms for surface transportation projects, Section 11301 codified significant portions President Trump’s One Federal Decision which required permitting timetables with fixed deadlines, Section 70801 permanently reauthorized the FAST-41 Permitting Council’s sweeping permitting reforms for major infrastructure project requiring over \$200 million in investment, Section 40105 revised the process for designation of National Interest Electric Transmission Corridors by the Department of Energy and enhanced the backstop authority of FERC, and Section 11318 created a new categorical exclusion for oil and gas gathering lines.

- Sectors Impacted: Transportation, Mining, Renewable and Conventional Energy Production, Electricity Transmission, Surface Transportation, Aviation, Ports and Waterways, Water Resource Projects, Broadband, Pipelines, Manufacturing, Semiconductors, Artificial Intelligence and Machine Learning, High-Performance Computing, Quantum Information Science and Technology, Data Storage, Data Management, Cybersecurity, Carbon Capture, Oil and Gas Gathering Lines.

[Inflation Reduction Act \(2022\)](#) - With over \$1 billion in investment to increase the efficiency of permitting at key federal agencies, the Inflation Reduction Act (IRA) made historic commitments to address the lack of agency staff, resources, and training to conduct environmental reviews. The money is distributed across the Department of Energy, the Forest Service, the National Oceanic and Atmospheric Administration, the Federal Energy Regulatory Commission, the Department of Interior, the Environmental Protection Agency, the Council on Environmental Quality, the Federal Highway Administration, and the Federal Permitting Improvement Steering Council. In addition, over \$2.7 billion was included to accelerate transmission development.

- Sectors Impacted: Transportation, Renewable and Conventional Energy Production Electricity Transmission, Surface Transportation, Aviation, Ports and Waterways, Water Resource Projects, Broadband, Pipelines, Manufacturing, Semiconductors, Artificial Intelligence and Machine Learning, High-Performance Computing, Quantum Information Science and Technology, Data Storage, Data Management, Cybersecurity, Carbon Capture, Public Land Management, Ocean management, Nuclear, and more.

[Fiscal Responsibility Act \(2023\)](#) - For the first time in over 50 years, Congress significantly amended NEPA. A bipartisan group of lawmakers and the Biden administration negotiated changes to the law that reduced the amount of time taken for reviews, clarified the roles and responsibilities of agencies, expanded the use of categorical exclusions, and set time limits and page limits on environmental reviews under NEPA. Since passage of the FRA, it is worth noting that over a dozen federal agencies have adopted over 100 categorical exclusions concerning reviews of actions ranging from renewable energy to conventional energy.

- Sectors Impacted: All. NEPA applies to over 80 federal agencies encompassing nearly every aspect of federal decisionmaking.

CEQ Finalization of the “Bipartisan Permitting Reform Implementation Rule,” aka Phase 2 NEPA Regulations (2024) – In response to the bipartisan FRA and as a part of its efforts to update the NEPA implementing regulations, CEQ finalized this rule to implement the changes of the FRA and restore certainty to both project sponsors and impacted stakeholders. The updated regulations codified 50 years of existing case law and were based on the statutory text of NEPA, as amended. The regulations ensured that agency decisions were informed by science, agency experience implementing NEPA, relevant environmental, climate change, and environmental justice effects.

- Sectors Impacted: All. NEPA applies to over 80 federal agencies encompassing nearly every aspect of federal decisionmaking.

Leveraging Technology to Modernize Reviews (2024) – In a report mandated by Congress in the FRA, CEQ detailed progress made in better utilizing technology to increase the effectiveness and efficiency of environmental reviews which included: the Permitting Council allocating over \$30 million to build and improve critical IT tools for permitting; the Army Corp of Engineers launching an online regulatory portal for permits to dredge, fill, or conduct activities in wetlands and waters of the U.S.; the Department of Energy announcing \$13 million in funding to build AI powered tools to improve siting and permitting of clean energy infrastructure and partnering to develop Policy AI to augment NEPA reviews; the Department of Transportation launching the modernizing NEPA challenge; and the National Telecommunications and Information Administration launching a permitting and environmental mapping tool to accelerate access to high speed internet.

- Sectors Impacted: All. NEPA applies to over 80 federal agencies encompassing nearly every aspect of federal decisionmaking.

While there are still opportunities to improve the permitting process under NEPA, it is simply impossible to say nothing has been done and timelines are not being reduced. As CEQ noted in its January report, the improved management and oversight of the permitting process combined with long overdue funding and resources for the agencies charged with review responsibilities is leading to results.

All of this progress, however, is now at grave risk. The current administration and this Congress is slashing agency staff and funding – both of which are necessary for agencies to meet their permitting responsibilities for critical infrastructure across the country. Just a few weeks ago, Congress passed H.R. 1, which rescinded funding allocated to agencies to improve the efficiency of the environmental review process for critically important roads, bridges, and highways.

Not only is funding being cut, but the Trump administration is sowing chaos into the permitting process. Regulatory certainty is gone under NEPA, thanks to CEQ issuing an interim final rule on April, 11, 2025, rescinding the regulations governing how over 80 agencies in the federal government implement NEPA. As a result of this action, over 80 federal agencies will independently determine how they will comply with NEPA and establish their own regulations. Just a few weeks ago, over a dozen federal agencies and departments issued separate NEPA procedures via interim final rules with only 30 days for the public to comment.

Project sponsors, impacted communities, as well as tribal and local governments, now may have to navigate 80 different sets of regulations for NEPA. Without adequate agency staff, without necessary funding, and without any regulatory certainty, the permitting process under NEPA will be longer and more litigious with worse outcomes for impacted communities and project developers.

The inevitable litigation arising from lack of clear regulations from CEQ stands in stark contrast to the often repeated goal to reduce unnecessary litigation of NEPA reviews. As the committee considers taking further steps to reduce litigation under NEPA, we would submit several studies that spotlight the prevalence of litigation under the statute. First, we submit a paper analyzing over 30,000 United States Forest Service actions subject to NEPA entitled “[US Forest Service Implementation of the National Environmental Policy Act: Fast, Variable, Rarely Litigated, and Declining](#).” In that paper, the authors note that “less than 1 percent of all completed NEPA analyses in our dataset led to litigation.” Similarly, in “[Measuring the NEPA Litigation Burden: A Review of 1,499 Federal Court Cases](#),” the authors noted that out of 51,000 NEPA decisions annually, there are on average just 115 NEPA lawsuits filed every year, which represents a litigation rate of 0.22%.” Finally, in “[Permitting Reform’s False Choice](#),” published last year in Ecology Law Quarterly, the author conducted a national study of federal permitting and environmental reviews for energy infrastructure constructed between 2010 and 2021 and concluded that we should “reject claims that placing broad limits on citizens suits and weakening the procedures and protections of the traditional environmental laws are necessary to meet the needs of the climate crisis.”

Similarly, any attempt to gut NEPA’s fundamental public process and participation elements will only exacerbate perceived delays and ineffective decisionmaking. In fact, [studies show](#) that facilitating earlier engagement with all stakeholders, including potential local opponents, can help improve the selected action and expedite the NEPA process by avoiding extended delays, litigation, or project cancellations. Public input, transparency, and meaningful participation is not only core to democratic decisionmaking, [it improves projects](#), leading to taxpayer dollars being spent more responsibly.

As this committee contemplates how to continue building on recent changes to the federal permitting process, we strongly encourage it to focus on solutions that are responsive to known causes of delay rather than solutions that erode transparent decisionmaking, meaningful public involvement, and adequate review of the health and environmental impacts of federal actions. Discussions should rely on fact-based studies such as “[Evidence-Based Recommendations for Improving National Environmental Policy Act Implementation](#),” which makes sensible recommendations based on rigorous consideration of problems on the ground.

Short-circuiting the NEPA process has real-world consequences when risks are inappropriately ignored. As a professor with the University of Utah’s Law School explained in [written testimony](#) submitted in connection with a 2023 hearing, the “BP Deepwater Horizon Oil Spill offers a cautionary tale against expediting permitting by eliminating analytical rigor and environmental analysis.” The Macondo well was permitted under a NEPA “categorical exclusion,” while staff were under pressure to meet 30-day deadlines and the industry had grown faster than the agency. *Id.* Risks that “might have been exposed through the NEPA process went undetected,” and it was only after oil was already flowing into the gulf that BP revealed it would take three months to drill a relief well to try to contain the spill. *Id.*

Our organizations have long been committed to the development of a NEPA permitting system that is commensurate with the challenge of building out a clean energy economy in a manner that is fast and fair and, critically, responsive to the needs of the climate crisis. It is well documented that we need clean energy and we need the transmission infrastructure necessary to unleash the terawatt of renewables waiting in the queue, which is why many of our organizations [released](#) a set of [solutions outlining policy and legislative reforms](#) needed to achieve those goals. Furthermore, it is absolutely essential for this committee to double down on the solutions we know are driving success – adequate staff, funding, and resources for agencies; improved management and oversight of critical infrastructure projects; and regulatory certainty. At a minimum, Congress should extend and expand the funding, rather than rescind it, to the agencies to improve NEPA implementation which was included in the IRA and which has led to documented results.

Simply put, gutting public participation, reporting, and competent analysis would decimate the very elements that have allowed NEPA to be effective. We instead implore Congress to build on these important aspects, reaffirming the fundamental principles on which this crucial law is built.

Thank you for the opportunity to submit these comments.

Sincerely,

**Center for Biological Diversity
Climate Justice Alliance
Defenders of Wildlife
Earthjustice
Food and Water Watch
Great Old Broads For Wilderness
League of Conservation Voters
Project Eleven Hundred
Sierra Club
Silvix Resources
Southern Environmental Law Center
Union of Concerned Scientists
WE ACT for Environmental Justice
The Wilderness Society**