Thank you for the question, Representative Fulcher.

The “litigation doom loop” is a major driver of NEPA uncertainty and delay. The process often takes years, and the risk of litigation pushes agencies and applicants toward ever more burdensome reviews—much of it defensive lawyering rather than environmental analysis.

If judicial review under NEPA is right-sized, companies will respond in three clear ways:

First, they’ll invest more—and sooner. With predictable timelines and lower litigation risk, boards will green-light projects earlier and at larger scale, especially in energy and infrastructure.

Second, they’ll build where the resource is. Much of our best energy potential sits on federal land. Because of the federal nexus, NEPA has pushed developers to lower-potential private sites. A saner judicial landscape would shift siting back toward the highest-value resources on federal land.

Third, they’ll enter shelved sectors. In areas like critical mineral mining and high-speed rail, the threat of years of litigation keeps many proposals from ever being filed. This invisible graveyard of projects that have never broken ground is the “dark matter” of NEPA. Reduce that threat, and you’ll see new project pipelines emerge.

The bottom line: reform that narrows litigation windows and clarifies standards will reallocate capital to the United States and accelerate development, all while maintaining environmental outcomes.