

Californians for Western Wilderness ♦ Center for Civic Policy ♦
Chaco Alliance ♦ Citizens Caring for the Future ♦ Citizens for a Healthy
Community ♦ Climate Advocates Voces Unidas ♦ Climate Hawks Vote ♦
Conservation Voters New Mexico ♦ Earth Ethics, Inc. ♦ Environmental
Protection Information Center ♦ Los Padres ForestWatch ♦ Montana
Environmental Information Center ♦ Multicultural Alliance for a Safe
Environment ♦ New Mexico Voices for Children ♦ New Mexico Wild ♦
Ocean Conservation Research ♦ ProgressNow New Mexico ♦ Project Eleven
Hundred ♦ Rio Arriba Concerned Citizens ♦ Rocky Mountain Wild ♦
Sierra Club ♦ Southern Utah Wilderness Alliance ♦ Waterkeeper Alliance ♦
Western Environmental Law Center ♦ Western Organization of Resource
Councils ♦ Winter Wildlands Alliance

September 1, 2022

The Honorable Chuck Schumer
Senate Majority Leader
Room S-221, The Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Room H-232, United States Capitol
Washington, D.C. 20515

We take this moment, as organizations committed to a thriving, resilient Western U.S., to applaud your leadership to pass the Inflation Reduction Act of 2022, a historic investment in U.S. climate action. At the same time, while we acknowledge the political challenges involved in the passage of the IRA, we ask you to be mindful that those challenges pale in comparison to the ones faced by frontline communities who have long shouldered inequitable and unjust adverse health, environmental, and community impacts caused by U.S. dependency on fossil fuels.

We therefore strongly oppose any side-deal that—under the guise of permitting “reform”—would weaken bedrock environmental and health laws and perpetuate inequitable and unjust harm to environmental justice communities.

It is, of course, an imperative to accelerate our transition to an economy rooted in clean, renewable energy from the wind and sun. This would position the U.S. as a global leader in the fight against climate change while building new industrial and manufacturing sectors that will create high-paying jobs to benefit U.S. families and workers. Yet the ill-advised side deal now on the table, apparently drafted in consultation with the American Petroleum Institute,¹ is based on a false narrative that dismantling bedrock environmental laws such as the National Environmental Policy Act and Clean

¹ <https://about.bgov.com/news/manchin-side-deal-text-lacks-mention-of-mountain-valley-pipeline/>.

Water Act is necessary to remove barriers to permitting and hasten the clean energy transition. Such a narrative must be rejected.

Despite the unsupported claims that environmental reviews under NEPA, in particular, result in unacceptable permitting delays, in reality, the problems with timely reviews are primarily the result of understaffing and undertraining in federal agencies which are bogged down by a culture that precludes effective and efficient NEPA reviews.² The few studies that exist conclude that the reasons for permitting delay (e.g., lack of funding, changes in project proposals or abandonment of projects by applicants, and public opposition) have little to do with NEPA implementation.³

In fact, “the vast majority of federal actions that *are* subject to NEPA review are evaluated through an expedited analysis contained in either a categorical exclusion (95%) or an environmental assessment (5%). Less than 1% of federal actions require an environmental impact statement.”⁴ On the litigation front, “overall, just 0.22% of NEPA actions—or 1 in 450—result in litigation, and NEPA litigation represents just 0.043% of all civil environmental litigation in which the federal government is a defendant.” What studies *have* shown, though, is expediting NEPA review leads to inadequate, environmentally harmful decisions and a higher likelihood of litigation.⁵ See attached [NEPA Fact Sheet](#).

To accelerate our build-out of a clean energy economy, we must invest in federal agency capacity and culture—not compromise the integrity of bedrock environmental laws.

Such an investment could help forge a path forward that, as MIT researchers concluded earlier this summer, is far more inclusive, respects and understands community concerns, and, in the process, saves everyone time and money.⁶ One such legislative investment is already pending in Congress: the Environmental Justice for All Act.⁷ The path forward most certainly does not involve whittling down environmental safeguards or silencing the public’s role in the environmental review process.

We stand ready to work with you to deepen U.S. climate action and accelerate our energy transition. But such work must properly diagnose the problem as a precondition of crafting effective and innovative solutions. Further, such work must not, as the permitting side deal would do, leave the people and communities who rely on bedrock environmental laws behind or perpetuate inequities and injustices.

We welcome further conversation.

² <https://www.congress.gov/115/chrg/CHRG-115hhrg27722/CHRG-115hhrg27722.pdf>.

³ <https://crsreports.congress.gov/product/pdf/R/R42479>.

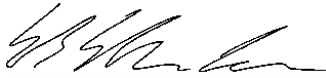
⁴ https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1008&context=stegner_pubs; <https://www.gao.gov/assets/gao-14-370.pdf>.

⁵ https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1008&context=stegner_pub.

⁶ <https://www.sciencedirect.com/science/article/pii/S0301421522001471>.

⁷ <https://www.congress.gov/bill/117th-congress/house-bill/2021/text>.

Sincerely,



Erik Schlenker-Goodrich
Executive Director
Western Environmental Law Center

Michael J. Painter
Coordinator
Californians for Western Wilderness

Anson Wright
Coordinator
Chaco Alliance

Natasha Léger
Executive Director
Citizens for a Healthy Community

RL Miller
President
Climate Hawks Vote

Mary Gutierrez
Director
Earth Ethics, Inc.

Jeff Kuyper
Executive Director
Los Padres ForestWatch

Susan Gordon
Coordinator
Multicultural Alliance for a Safe Environment

Sally Paez
Staff Attorney
New Mexico Wild

Lucas Herndon
Energy Policy Director
ProgressNow New Mexico

Oriana Sandoval
Chief Executive Officer
Center for Civic Policy

Kayley Shoup
Community Organizer
Citizens Caring for the Future

Kurt Gutjahr
Executive Director
Climate Advocates Voces Unidas

Demis Foster
Executive Director
Conservation Voters New Mexico

Thomas Wheeler
Executive Director
Environmental Protection Information Center

Anne Hedges
Director of Policy and Legislative Affairs
Montana Environmental Information Center

Amber Wallin
Executive Director
New Mexico Voices for Children

Michael Stocker
Director
Ocean Conservation Research

Mary O'Brien
Director
Project Eleven Hundred

William Clark
President
Rio Arriba Concerned Citizens

Nathaniel Shoaff
Senior Attorney
Sierra Club

Daniel E. Estrin
General Counsel and Advocacy Director
Waterkeeper Alliance

Hilary Eisen
Policy Director
Winter Wildlands Alliance

Alison Gallensky
Conservation Geographer, Leadership Team
Rocky Mountain Wild

Travis Hammill
DC Director
Southern Utah Wilderness Alliance

Barbara Vasquez
Oil and Gas Team Chair
Western Organization of Resource Councils

THE INFLATION REDUCTION ACT & THE PERMITTING SIDE DEAL



Western
Environmental
Law Center

The [Inflation Reduction Act \(“IRA”\)](#) is the most important climate legislation in U.S. history and, we are learning, one that comes with a very steep price—continued handouts to the fossil fuel industry, the very industry that [knowingly caused the climate crisis](#).

Clinching this deal hinged upon promising to roll back our bedrock environmental laws.

Yet, the [permitting side deal](#) misdiagnoses the challenges and opportunities to accelerate the much-needed clean energy transition. These “reforms” would exclude the public from decision-making and harm environmental justice communities already suffering disproportionate impacts from fossil fuel extraction.

Our priority: carefully think through an inclusive clean energy transition that doesn’t sacrifice bedrock environmental laws or environmental justice communities.

For decades, anti-environment and pro-industry interests have pushed a false narrative that the National Environmental Policy Act (“NEPA”) results in unacceptable permitting delays, abuse, and inefficiencies which prevent timely federal decision-making and delay important projects.

These tired calls for “permitting reform” and “streamlining NEPA review” are buzzwords for gutting NEPA’s core protective provisions—the provisions that require an engaged and informed public to help craft thoughtful decisions in the public interest.

WHAT IS NEPA?

NEPA = the “environmental magna-carta” of the United States. It is a compelling, essential, and straightforward law that requires the federal government to:

1. Make informed decisions for all major federal actions affecting the environment before action is taken;
2. Engage the public in order to learn essential information about potential environmental consequences and alternatives; and
3. Identify and consider those alternatives to the proposed action that would avoid or minimize adverse environmental impacts
([42 U.S.C. §§ 4321 et seq.](#)).

Fundamentally, NEPA results in better, more transparent decisions that provide people a voice in decision-making and protect the environment and communities from harm.

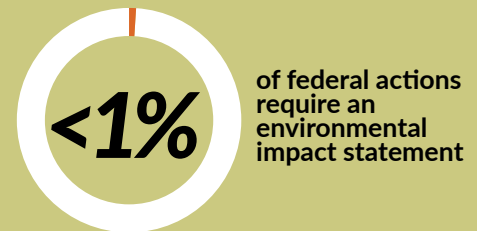
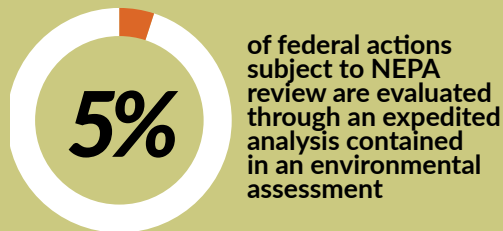
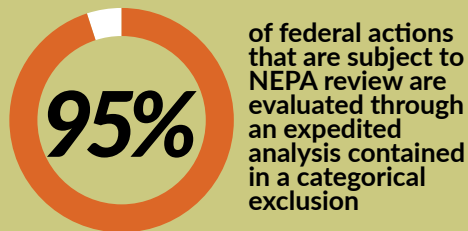
WHY IS NEPA IMPORTANT?

- NEPA requires federal agencies to “look before they leap” into action.
- This ensures that decision-makers and the public make reasoned and informed decisions that serve the public interest.
- NEPA recognizes that the public has a stake in government actions, democratizing decision-making.
- Over the past 50 years, these requirements have not only [prevented environmentally harmful decisions](#), they’ve [improved projects while saving time and reducing costs](#).

THE IRA BOOSTS CLEAN ENERGY DEVELOPMENT, AND THE CLIMATE CRISIS DEMANDS CHANGE ASAP.

DOESN'T NEPA CAUSE MAJOR HEADACHES AND DELAYS IN PERMITTING, NOT TO MENTION LITIGATION?

According to [recent research](#):



On the litigation front:

1 in 450 NEPA actions result in litigation

0.043% of civil environmental litigation over NEPA in which the federal government is a defendant

WHY DOES ENVIRONMENTAL REVIEW TAKE SO LONG, THEN?

[Research](#) concludes that reasons for permitting delay have nothing to do with NEPA implementation. In short, [federal agencies are understaffed, under-trained, and bogged down by an agency culture that precludes effective and efficient NEPA reviews.](#)

This suggests that investing in federal agency capacity and culture can accelerate a clean energy build-out without compromising NEPA's integrity.

HOW CAN PROJECTS MOVE MORE QUICKLY?

We can't fall for tired rhetoric that handcuffs the clean energy transition to ill-considered changes to agency decision-making. The IRA provides agencies nearly \$1 billion in funding for environmental review—a good start to increasing agency capacity. Those funds can improve the NEPA review process through hiring and training staff dedicated to conducting inclusive and meaningful environmental reviews. The legislative permitting side deal driven by fossil fuel interests would undermine those efforts, tying agency hands just as they are finally seeing additional resources to do their jobs.

WHAT CAN CONGRESS DO?

1. Congress should provide funding and authority to agencies to ensure that they have the capacity to use bedrock laws with creativity and agility. Properly resourced agencies can then use the NEPA review process as a bridge, not a barrier, to a clean energy future.

2. Congress should pass the [Environmental Justice for All Act](#). This groundbreaking legislation acknowledges that environmental justice communities are overburdened, deserve an equitable seat at the table, and offer unparalleled wisdom and perspective on what communities facing the climate crisis need. The Environmental Justice for All Act would help build partnerships between communities, agencies, and the companies and workers building out a clean energy economy—an economy that must be rooted in equity and justice.

The story being spun is that our only hope to realize the potential of the IRA's historic investments in clean energy is to cut corners on NEPA environmental review by fast-tracking projects, limiting public participation, and hampering judicial oversight.

- Although NEPA makes for an easy scapegoat, [there is no evidence that NEPA is the cause of delays in federal permitting.](#)
- Most federal actions, including energy permitting projects, are subject to review under multiple laws (including state laws), not just NEPA.
- In fact, [MIT researchers have found](#) that a more inclusive, meaningful environmental review process can save time and money and lead to better decisions.