



The Polluters' Priority Plan

Our Take on the Revived Dirty Deal & Increased Attacks on NEPA

Over the summer, U.S. Senators Joe Manchin (I-WV) and John Barrasso (R-WY) released the [Energy Permitting Reform Act of 2024 \(EPRA\)](#). This bill - back from the dead with a new name - is yet another iteration of Senator Manchin's [Dirty Deal legislation that was defeated by communities 3 times](#) before and would gut bedrock environmental legislation that provides safeguards to communities from dangerous health risks, life-threatening pollution, and contamination posed by dirty industry.

Under the guise of needing to move along clean energy projects, this permitting reform legislation - along with [the House's](#) accompanying proposals which demonstrate a clear connection to Project 2025's quest to weaken the federal government and discredit environmental justice advocates, is a raw deal for us all. Instead of cowering to corporate interests, lawmakers should safeguard our communities' health and well-being.

The Polluters' Priority Plan: Another Dirty Deal in the Senate

[S.4753 - the Energy Permitting Reform Act of 2024](#) focuses on reforming the leasing, permitting and judicial review process for energy and mineral mining projects with such a glaring nod to dirty industry that some refer to it as the Polluters' Priority Plan.

Environmental Justice leaders agree. **According to Elizabeth Yeampierre, Executive Director at UPROSE and CJA Board Co-Chair**, *"This dirty deal 'accelerates leasing and permitting decisions for all types of energy projects on federal lands', will fast-track LNG projects, and clear the way for oil, gas, coal, mining, and liquified natural gas companies to pollute our water and lands-- all in all, exacerbating the public health issues faced by our communities amidst an increasingly accelerated climate crisis. It also strips away communities' rights and the foundational protections afforded them under the National Environmental Policy Act (NEPA) and other bedrock protections like the Clean Water Act*



that ensure a pathway for community input and recourse against toxic and polluting industries.”

If passed, it would mandate reforms for onshore oil, gas, and renewable energy leasing, including specific deadlines for applications and permits. In particular, the time for judicial review of a project authorization will be cut down from the existing 6 years to a mere 150 days. This significantly short-changes the most impacted and vulnerable communities and limits their ability to challenge harmful projects in court if they cannot gather their own comprehensive assessment to show probable cause of harm in time for hearings. Gutting people’s rights to due process in these areas significantly weakens their ability to exercise their right to recourse and to provide input on proposed projects.

Weakening NEPA, for example, by expanding the use of [categorical exclusions](#) for “low disturbance activities” which will increase approvals of projects (even with negative environmental impacts), could lead to a lack of consistency and risk of overuse by the agencies involved. Allowing projects that should be reviewed more closely to bypass that necessary additional scrutiny and accountability from the communities where the project would be sited, is counterintuitive and harmful. **Tom Goldtooth, executive director of the Indigenous Environmental Network shared,** “Our Indigenous communities and tribal governments



fighting to protect our environment and the health of our people have consistently fought against weakening the National Environmental Policy Act (NEPA) and fast-tracking permitting processes. The United States government has a fiduciary responsibility to protect Indigenous nations and respect our sovereignty and self-determination to prevent harm from the extractive industries coming into our lands and territories, including public lands that are culturally and historically significant. Continued violations to Indigenous Treaties must stop now! We reject the Energy Permitting Reform Act of 2024. EPRA does not recognize our inherent relationship jurisprudence and jurisdictional

authority to protect our lands, waters, air, and territories.”

Moreover, greenlighting geothermal and electric grid projects for energy production and transmission through an expedited review process which does not ensure in-depth analysis, such as a comprehensive review of cumulative impacts for surrounding neighborhoods of these projects, will only guarantee more harm and life-threatening risks for the most vulnerable communities who live by these projects. In short, this bill further sidelines communities most impacted by polluting industry, strongly favoring industry profits over community health and well-being.

Environmental Studies Professor Dustin Mulvaney points out in [a recent article](#), “It [EPRA] contains provisions for everything from undoing the pause on building new liquified natural gas facilities, to letting mining companies dump waste on public lands, to promises to expedite the siting process for electricity transmission lines and fossil fuel infrastructure. In typical bipartisan fashion for energy legislation, western public lands are for sale to energy and

mining industries. Oil and gas producers will get access to more onshore and offshore energy, force the approval of new liquified natural gas facilities along the Gulf of Mexico to export, and reverse an important court decision and allow mining companies to treat public lands like a hazardous waste dump.”

While the decision by the Biden Administration to pause the building of new liquified gas facilities earlier this year was a big step in the right direction for environmental justice; passing this polluters’ priority plan legislation would be a gigantic step backwards and would codify harm for environmental justice communities far into the future. The former move speaks to the type of legacy we need from our elected leaders; the latter would severely tarnish and impede the forward momentum underway to address the climate crisis through science and people based approaches. More sound solutions solve for and understand the [“perilous impacts of methane on our planet”](#) and the need to [“guard against risks to the health of our communities, especially those that shoulder the burden of pollution from new export facilities.”](#)

This bill ensures that our transition to clean energy is only possible if the dirty fossil fuel industry is allowed to continue to rake in profits through unfettered access to public lands, to expand projects that continue to accelerate climate change. In fact, offshore drilling is required with at least one lease sale per year. This in turn, will increase the life-threatening impacts of extreme weather and mega-storms, while slashing communities’ democratic rights. In fact, [modeling](#) that was disseminated widely to justify this legislation and peddle it as a tool to reduce greenhouse gas emissions through [net emissions reductions](#) (which we know does not address emissions at the source nor in the time needed), is inaccurate and problematic because, “they erroneously assume the law is the reason that all future transmission is built. This ignores years of incremental policy incentives to facilitate transmission build out such as the recently implemented [Federal Energy Regulatory Commission Order 1920](#), and grossly overestimates the greenhouse gas benefits from permitting reform,” according to Professor Mulvaney.

This bill is an attack on Black, Brown and economically disenfranchised communities. If passed, these neighborhoods will continue to serve as the fossil fuel industry’s dirty little secret, ensuring sacrifice zones for generations to come.

Alarming Accompanying Proposals in the House

In September 2024, [the House Natural Resources Committee shared its version of permitting and NEPA “reform” at a hearing](#) to discuss 3 bills on the issues. One of these was the [draft of a bill](#) proposed by Representative Westerman (R-AK) to “amend” NEPA. Westerman’s proposal would actually significantly alter the purpose of NEPA to become a procedural statute that considers environmental review but **does not mandate specific outcomes or results**, taking out all the teeth to this act.

K.D. Chavez, interim executive director of the Climate Justice Alliance explains, *“The National Environmental Policy Act is the People’s Environmental Law. For half a century, it has given frontline communities, like the ones we serve, the voice and the agency to*

determine the types of federal projects built in our neighborhoods. Whether it's a highway expansion, the building of a toxic incinerator, or a new polluting power plant, NEPA is one of the only legislative tools that our communities have to protect ourselves and fight for our lives and livelihoods."



In addition, if moved forward, this proposal would impose nonsensical and strict limitations on judicial review for cases, such as mandating plaintiffs to have participated in the public comment period of the project and limiting their lawsuit to the points made during that comment period only.

In comparison to the Manchin-Barrasso bill, Westerman proposes shortening the file claims deadline even further to 120 days. It also restricts all court actions against projects “unless there is a clear finding of substantial and proximate environmental harm.” Moreover, it minimizes the scope of environmental reviews to those within the jurisdiction of the lead federal agency in charge of the project, and limits the use of any new scientific evidence.

All this and other parts of the bill create significant roadblocks for community members who may not be well informed about a project's impact, nor have the right tools, resources (financial or otherwise), and evidence ready in order to hit the ground running and advocate within the shortened time frame that comments can be heard and litigation carried out.

It's important to note that Republican Representative Westerman has been successful in his endeavors to weaken NEPA already this year, as he is one of the architects of the recently passed [“Fix Our Forests Act”](#) in the House. This legislation is a blow to NEPA environmental review in forest management practices.

What Positive Permitting Reform Could Look Like

In the eyes and minds of environmental justice communities, we understand that permitting reform to aid a transition to just renewable energy does not mean undermining bedrock environmental laws like NEPA. Environmental, climate justice, and community organizations already have a clear [vision for positive and progressive permitting reform](#).

Renewable energy production that is localized and distributed across built spaces can meet the energy demands that utility scale production and large scale transmission seek out to compete with. Energy efficiency and conservation technologies such as heat pumps and weatherization, and mandatory emission reductions can reduce energy demands. Distributed energy sources like rooftop and community solar and storage, and microgrids can avoid the impacts and inefficiencies of large scale transmission energy projects. At a time of increasing weather and climate emergencies, localized energy sources can help communities remain resilient and adapt to unprecedented challenges. We believe that large scale renewable energy and transmission should be properly sited and go through robust environmental review and community engagement taking advantage of building on degraded lands and surfaces first. Moreover, we believe that a responsible and comprehensive approach to mining needs should be a priority as

we do not want to perpetuate or create environmental injustices and harms on communities through massive extraction of minerals. Rather, we believe that responsible extraction, a circular economy, and alternatives/limitations for the mineral demands should be considered as priorities in the process.

The current proposals in both chambers of Congress open up the floodgates to loopholes that fast track oil and gas projects, and undermine our climate and energy goals. In addition, these loopholes create space for dangerous distractions such as carbon capture and storage, hydrogen, and other technologies that are unproven to sequester carbon emissions at the rate and speed needed to meet the moment and actually increase greenhouse gas emissions. These risky projects will only extend the life of the fossil fuel industry and create further harm and pollution in frontline communities.

Instead, we support positive permitting reform that would further democratize early and meaningful community engagement and boost environmental review processes that [studies have shown actually “avoid extended delays or project cancellations”](#) and can [reduce backlog](#), while also increasing thoroughness. In a [policy brief](#) by the Roosevelt Institute, they shared that “Most NEPA decisions are made within a reasonable time for the complexity of the project, and the analytical rigor applied to a project is tailored to the intensity of a project’s impacts.” Improving the interconnection queue backlog while also addressing [understaffing and underfunding of permitting agencies](#) should also be addressed if we really want to move sensible projects forward. Incentivizing community-led projects and engagement with them at the beginning of the process should be prioritized, not undermined.

Here’s what environmental justice leaders are saying:

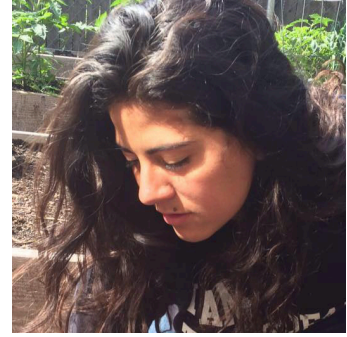


"With adequate community consultation and design involvement from the beginning, we know that green energy projects can move forward and serve as a value-add to Black and Brown communities most impacted by pollution and climate change. Sidelining communities in the process by weakening the National Environmental Policy Act will only further slow down the permitting process and codify future harm for those already experiencing the impacts of environmental racism on a daily basis. Democratic leadership: You must do everything in your power to block this deal! The time to act is now." - **Dwaigh Tyndal, Executive**

Director of Alternatives for Community & Environment (ACE) and CJA Board Member

"Rather than another handout to dirty industry, we should be advancing forward thinking legislation that jumpstarts a Just Transition through locally led, proven climate solutions such as community owned wind and solar. We need legislation like the Environmental Justice for All Act that ensures safeguards and strong protections for communities, and takes into account the cumulative impacts our neighborhoods have faced for decades." - **Elizabeth Yeampierre, Executive Director of UPROSE and CJA Board Co-Chair**

“Sen. Manchin continues to sacrifice our communities for fossil fuels, while we are fighting for our lives. At a moment when we have no other choice but to build and create real community climate solutions that center environmental justice, we are forced to spend time fighting against bad policies that we’ve already organized against and won multiple times. Listen to the people, how many times do we have to say no?!? Let this zombie bill die once and for all.” - Maria Lopez-Nuñez, Deputy Director of Advocacy and Organizing at Ironbound Community Corporation and CJA board member



Again and again, Sen. Manchin has steadfastly demonstrated his commitment to corporate giants rather than community constituents. Our position is very clear—and grounded in the stakes of this moment in the climate crisis and in the Just Transition we desperately need to address it. We call on our policymakers to reflect this urgency, and at the least, not aim to derail climate justice work for corporate interests and financial profit.” - Juan Jhong Chung, executive director of the Michigan Environmental Justice Coalition

“Permitting reform has become a buzzword that’s supposedly about building the renewable energy we need rapidly and efficiently. But if that’s what its proponents truly want, they would address the real roadblocks to deployment of renewable energy, such as the wait times for renewable generation to connect to the grid, instead of using yet another excuse to attack and weaken bedrock environmental laws that provide a measure of protection against polluting projects for already overburdened frontline communities.” - Basav Sen, Climate Policy Director, Institute for Policy Studies

