

## API Permitting Deal Key Messages:

### TOPLINE MESSAGES:

- The API permitting side-deal is a continuation of a long history in which dirty industries harm low-income communities and communities of color and low income by attacking their ability to determine the projects built in their neighborhoods through the NEPA process. This side-deal, combined with fossil fuels giveaways in the Inflation Reduction Act like tax breaks for false solutions like carbon capture and sequestration (CCS) and dirty hydrogen, allows industry to fast-track fossil fuel projects while sidelining communities, perpetuating more pollution, and ignoring the reality of a clean energy future.
- While the NEPA process gives communities a voice, the API bill is designed to silence them and fast-track dirty and harmful projects. It is a bill forged in the backrooms of Washington by the fossil fuel industry and their congressional allies. Its dangerous ideas deserve public accountability and have no place in must-pass legislation.
- Low-income communities and communities of color have long been overburdened by prolonged exposure to pollution and the worst impacts of the climate crisis. The National Environmental Policy Act (NEPA) was established to ensure that communities can have influence over federal decision-making processes that determine the federal projects built in their backyards. As we fight the dual pollution and climate crises, we must rapidly transition our economy away from the dirty fossil fuels that caused them and quickly build the clean energy infrastructure of the future while addressing toxic pollution that has disproportionately impacted low-income communities and communities of color and those of low-income.
- NEPA is critical to mitigating future polluting projects and building climate-resilient infrastructure by ensuring:
  - **Transparency in federal decisions** so that communities knows what projects the government is putting in their neighborhoods.
  - **Public Input** so that frontline communities who are the most impacted by federal projects can influence the decisions
  - **Review** so that the government and communities can study the health, environmental, and economic impacts of projects and seek alternatives that enhance positive impacts while limiting negative ones.
- As the U.S. embarks on the most active period of building infrastructure since the New Deal, we must have planning and review requirements that drive a truly equitable build-out and actually achieve imperative health, climate, and ecological outcomes. The IRA's gifts to fossil fuels only underscores the supreme importance of permitting protections.
- Environmental review and the NEPA process are a bridge, not a barrier, to building our clean energy infrastructure in a sustainable, just, and equitable way. When adequately funded and implemented, it enables federal agencies to conduct meaningful public engagement at the outset of development proposals, robust analysis of all potential project impacts, and the ability to offer alternatives when available. When communities are engaged from the start, the result is more inclusive and it creates more resilient projects that avoid litigation to enforce the law.

### WHAT THE API "SIDE-DEAL" DOES

- The API side deal provisions weaken environmental protections by:

- Seeking to reduce requirements to consider environmental/health preferred alternatives
- Seeking to allow deficient state analyses to substitute for federal review, bypassing more protective federal requirements
- Promoting the use of categorical exclusions from the NEPA process which would allow projects to be approved with little to no public input, transparency or environmental impact analysis
- Trying to exclude impacted communities from seeking legal redress for illegal projects by establishing very high hurdles for impacted stakeholders to preserve their right to seek legal redress and file them in time.
- Overall, the intent and impact of these rollbacks is to limit public participation and meaningful review both by federal agencies and the courts. It's a giveaway to the very industries that are poisoning our communities and causing the climate crisis.
- The API permitting side deal manages to undercut historic NEPA funding by pushing through a suite of changes long championed by polluting industries.
  - It prioritizes dirty fossil fuel projects,
  - Privileges project sponsors over the public, and
  - Will entrench environmental racism into decision-making by sidelining the voices of impacted communities. Congress must reject this polluter permitting package that extends a lifeline to fossil fuels and silences community voices.

#### **LEADING WITH FACTS**

- The NEPA Process is not a source of delay. Environmental review is a convenient scapegoat for developers and the fossil fuel industry for delayed project timelines. Research makes clear the real culprits of prolonged project timelines are lack of project funding, changes in project design, and insufficient agency resources and training – NOT public input and review of health and environmental impacts.
- For decades, Republicans and polluting industries have engaged in a malicious strategy to create a self-fulfilling prophecy. They've gutted NEPA regulations, blocked funding, and then claimed 'burdensome regulations' as slowing down development—all so they can continue to fast track harmful polluting projects that put profits over people.
- Democratic members of Congress recognized that NEPA is the tool for just and equitable development and provided close to \$1 billion in funding for the environmental review process as part of the historic investment to jumpstart the clean energy projects we need to transition. Funding for environmental review in the IRA will expedite permitting, help avoid disproportionate impacts, and lead to better, more equitable outcomes.

#### **A BETTER WAY FORWARD**

- Public engagement matters, and Congress should instead look to passing the Environmental Justice for All Act. This bill creates certainty for project sponsors and stakeholders by clarifying exactly how agencies should consider and address the cumulative, and often disproportionate, impacts that may result from rapid project development. This type of certainty ensures permitting and project development proceed not just efficiently, but equitably.

- The facts are clear: The best way to get good projects built expeditiously is to engage in meaningful outreach and review at the outset. The EJ for All Act would ensure that happens in the communities where it matters most. This is how we build out the clean energy infrastructure of the future.
- Research shows that NEPA and environmental review as a whole is not the source of delay or cancellation for renewable energy projects. A [Massachusetts Institute of Technology study](#) found that most opposition to renewable projects is based on numerous reasons and that the sources for opposition intersect and interact more often than not.
- The common thread in renewable energy projects that faces the strongest opposition was a lack of community involvement early in the planning process. “Our study corroborates the conclusions of Fast et al. (2016) as well as Stadelmann-Steffen and Dermont (2021) regarding the importance of increased public engagement earlier in the siting process. By including community members and relevant stakeholders in location, design, finance, mitigation, and other decisions we believe it should be possible to resolve many of the conflicts that tend to arise (Fast et al., 2016; Stadelmann-Steffen and Dermont, 2021). Because the EJ for All Act is designed to create better partnerships between communities, governments, and project sponsors it is the most effective way to speed up renewable energy production. We urge Congress to pass the EJ for All Act into law and forget about profit-driven dirty industry proposals that seek to further harm frontline communities.