



February 28th, 2023

The Honorable Bruce Westerman
Chairman
Natural Resources Committee
United States House of Representatives
Washington, DC 20515

The Honorable Raul Grijalva
Ranking Member
Natural Resources Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Westerman and Ranking Member Grijalva:

We strongly oppose the Building United States Infrastructure through Limited Delays and Efficient Reviews Act, ("the BUILDER Act").

The National Environmental Policy Act ("NEPA") was enacted in 1969 and created a process to ensure that federal agencies consider the environmental impacts of development. Before the passage of NEPA, major projects and construction often led to air and water contamination and the decline of many native wildlife species. The impact on communities has been and continues to be profound, with communities paying the price of poor and, at times, intentionally discriminatory planning that divided communities, created economic hardship, and plummeted health. NEPA was a historical bill stating that the federal government is responsible for "[assuring] for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings." Unfortunately, this statement still needs to be a reality for many low-income communities and communities of color who disproportionately bear the brunt of industrial pollution and development.

The BUILDER Act is an outrageous attempt to weaken NEPA. NEPA has fundamentally served as a way for democratic processes in the permitting process. Below we highlight some of the most egregious provisions with the BUILDER Act, however we recognize that this is a non-exhaustive list of the harmful provisions with the bill. The BUILDER Act would intentionally allow industry to influence and undermine environmental assessments and impact statements. Amending Section 107 to enable project sponsors to prepare their documents is placing significant power in the hands of developers, some of whom have historically sited their facilities in communities of color and communities of low income and traditionally neglected to disclose potential harms of their facilities and products.

One critical aspect of NEPA is that it allows our judicial system to hear communities' concerns and priorities. While this is truly a last resort effort, it is often the only way communities can

ensure that harmful developments will not be placed into their communities. Unfortunately, the BUILDER Act would significantly limit communities' opportunities for judicial intervention by decreasing the deadline to file a claim to 120 days (4 months). Reducing the filing period will create a significant barrier to environmental justice communities, which tend to have lower wealth and often need help accessing financing for lawyers.

In addition to decreasing the deadline to file a claim, the BUILDER Act would bar litigation if the complainant did not participate in the public comment period. Communities must be able to participate in the judicial system *without* participating in a public comment period, which can be limited or exclusionary. Indeed, public comment periods may be poorly publicized, inaccessible, or scheduled during extremely low engagement periods for communities such as during holidays. Community members often learn about a proposed project once the public comment period has passed. Rather than barring action based on public comment participation, equity and environmental justice demands call for longer public comment periods, with increased accessibility and access for communities and public stakeholders. By barring litigation based on public comment periods, the BUILDER Act will stifle oversight, review, and recourse from communities that are most adversely impacted by permitting decisions.

The BUILDER Act would allow for the continued degradation of the environment, even when a project is being contested in the courts, by prohibiting injunctive relief. By denying injunctive relief - harmful projects that deteriorate water quality and impact the surrounding ecosystem could experience long-term impacts with costly remediation. Refusing injunctive relief is particularly concerning in environmental justice communities that may already experience poorer water quality.

The BUILDER Act would significantly diminish the integrity of the environmental assessments within NEPA, and undermine communities' rights to democratic involvement in the health and wellbeing of their communities. In communities overburdened by industrial development, there is an urgent need to consider the cumulative impacts under NEPA and expand opportunities for public comment. Strengthening NEPA in this way is a commonsense approach that would benefit people living in all kinds of communities and should be easy for members across the aisle to support regardless of political party affiliation. Therefore, we strongly support the reintroduction of the Environmental Justice for All Act as a community-led bill that improves NEPA for the betterment of the most vulnerable communities.

Sincerely,

Arbor Hill EJ
CleanAirNow _ Environmental Justice
Coalition of Community Organizations, Houston, TX

Energy Justice Network
Flint Rising
GreenLatinos
PODER, Austin TX
South Bronx Unite
WE ACT for Environmental Justice

Allied Organizations

198 methods
350 Bay Area Action
350 New Orleans
350.org
7 Directions of Service
A Community Voice
Alliance of Nurses for Healthy Environments
Black Millennials 4 Flint (National)
Center for Biological Diversity (National)
CleanEarth4Kids.org
Climate Reality Project, NOLA Chapter
Coalition Against Death Alley
Color Brighton Green, Brighton, NY
Concerned Citizens of St. John
Concerned Health Professionals of Pennsylvania (Physicians for Social Responsibility)
Creation Collaborative, national
Earth Ethics, Inc.
Earthworks: Protecting Communities and the Environment
Extinction Rebellion San Francisco Bay Area
Greater New Orleans Interfaith Climate Coalition
Greece Baptist Church Sustainability Team, Rochester, NY
Gullah/Geechee Sea Island Coalition
Hispanic Access Foundation
Hispanic Federation (National)
Inclusive Louisiana
League of Conservation Voters
Los Padres ForestWatch, Santa Barbara, CA
Louisiana League of Conscious Voters
Nassau Hiking & Outdoor Club
Nuclear Information and Resource Service (“for a nuclear-free, carbon-free world”), Takoma Park, MD
Occupy Bergen County, New Jersey

Our Revolution Ocean County, NJ
Rachel Carson Council, Bethesda, MD
Rise Up WV
River Valley Organizing
Sarah Stewart, Animals Are Sentient Beings, Inc., MA
Social Eco Education (SEE), Los Angeles, CA
Sunnyside Community Redevelopment Organization
The Wilderness Society
Toxic Free NC
tUrn Climate Crisis Awareness & Action, Santa Clara, CA
Union of Concerned Scientists
Unitarian Universalists for a Just Economic Community
Zero Hour