



**FROM:** Kountoupes Denham Carr & Reid

**DATE:** Tuesday, July 22<sup>nd</sup>, 2025

**RE:** House Natural Resources Committee Hearing on “Permitting Purgatory: Restoring Common Sense to NEPA Reviews”

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**Topline Summary**

- Members of the House Natural Resources Committee convened for an oversight hearing to receive testimony from industry experts and stakeholders on the impacts of the National Environmental Policy Act of 1969 (NEPA) on the federal permitting process.
- Members on both sides of the aisle acknowledged that NEPA reviews often take too long, contributing to stalled infrastructure, energy, and defense projects. Witnesses attributed delays to agency staffing shortages, outdated processes, and litigation risks.
- Republicans criticized NEPA’s environmental overreach and regulatory manipulation that obstructs development. Witnesses advocated reforms including time and page limits, increased categorical exclusions, greater transparency, and use of technology, such as AI, to accelerate reviews. There was strong support for codifying Supreme Court decisions such as the recent Seven County decisions to clarify legal standards and reduce litigation.
- Democrats emphasized the importance of public input, tribal consultation, and environmental justice, raising concerns about rushed timelines and favoritism toward fossil fuels. Several members criticized recent executive actions that appear to favor or restrict certain energy types, especially solar and wind, and suggested these actions undermine permitting neutrality and discourages investment.

**Members Attending:** Chairman Bruce Westerman (R-AR), Ranking Member Jared Huffman (D-CA), Rep. Tom McClintock (R-CA), Rep. Doug LaMalfa (R-CA), Rep. Emily Randall (D-WA), Rep. Pete Stauber (R-MN), Rep. Debbie Dingell (D-MI), Rep. Jeff Crank (R-CO), Rep. Julia Brownley (D-CA), Rep. Tom Tiffany (R-WI), Rep. Susie Lee (D-NV), Rep. Tim Walberg (R-MI), Rep. Nick Begich (R-AK), Rep. Sarah Elfreth (D-MD), Rep. Harriet Hageman (R-WY), Rep. Dave Min (D-CA), Rep. Jeff Hurd (R-CO), Rep. Maxine Dexter (D-OR), Rep. Amata Coleman Radewagen (R-AS), Rep. Darren Soto (D-FL), Rep. Melanie Stansbury (D-NM), Rep. Jen Kiggans (R-VA), Rep. Val Hoyle (D-OR), Rep. Yassamin Ansari (D-AZ), Rep. Russ Fulcher (R-ID), Rep. Teresa Leger Fernández (D-NM), Rep. Adam Gray (D-CA), & Rep. Scott Peters (D-CA).

**[Live Hearing Link](#)**

***Meeting called to order by Chairman Westerman***

**Opening Statements**





**Chairman Bruce Westerman (R-AR):** Good morning. I appreciate all of you being here today to discuss one of the most critical issues I believe that's facing America, and it's our outdated and cumbersome permitting process.

The National Environmental Policy Act, or NEPA, was initially intended to promote informed decisions and assess the environmental impacts of major federal actions.

Today, however, NEPA has mutated into a significant roadblock to carrying out the infrastructure and energy projects essential to America's energy and national security needs.

To quote the recent Supreme Court decision on NEPA in *Seven County Infrastructure Coalition versus Eagle County, Colorado*. "1970 legislative acorn has grown over the years into a judicial oak that has hindered infrastructure development under the guise of just a little more process."

NEPA, reviews have become limitless and excruciating exercises requiring agencies to a mass behemoth environmental tree treaties which increase project cost and create delays for projects ranging from transportation and infrastructure to forestry, conservation and energy development.

In 2020 the average length of a final environmental impact statement, or EIS, was 661 pages, and the average time to complete an EIS was a whopping four and a half years for all projects and over seven years for Federal Highway Administration projects. Notably, these figures do not include the time spent on pre NEPA activities, which add even more time to the process.

As a project proponent, once your behemoth NEPA document is completed, you're likely to face frivolous litigation from dark money special interest groups that have built business models around litigation to delay and block projects under NEPA.

According to a recent study by the Breakthrough Institute, NEPA is the most frequently litigated environmental statute, and NEPA related litigation takes an average of over four years to resolve, adding time and increasing cost and increasing uncertainty when you have a project with a federal nexus.

These delays have a significant impact on projects cost, some of which are passed along to taxpayers. In fact, an analysis by common good shows that a six-year delay in construction on public projects cost the US economy over \$3.7 trillion. Let me repeat that these six-year delays on construction projects, cost the US economy on public projects, we're not talking about energy and other projects, we're talking about road construction and those sort of things, \$3.7 trillion with no return on it to the American public.

For many years or for many projects, years of delay and increasing cost are a base case scenario. In many cases, projects are permanently halted by the courts, are mired in endless reviews and appeals, prompting project proponents to simply give up.

This is especially egregious given that NEPA is purely a procedural statute, a point that the Supreme Court yet again clarified in the *Seven County* decision. Thankfully, this case has restored some sanity in the NEPA process by limiting reviews and clarifying the lower courts should not use NEPA as a tool to block projects.

While the committee was able to secure meaningful changes to NEPA and the Fiscal Responsibility Act, these changes were largely ignored by the previous administration's Council on Environmental Quality in





their Phase Two NEPA rule making, which also added new requirements to NEPA not found in the statute.

This initiated a change reaction that began with a lawsuit from 20 states and culminated in a court decision that vacated the phase two rule, finding that the phase two rule exceeded CEQ's authority under NEPA and that CEQ lacked statutory authority to promulgate any rule making implementing NEPA.

The Trump Administration's CEQ has issued guidance to agencies to follow in their respective NEPA rule making efforts. This guidance finally directs agencies to faithfully implement the reforms made in the FRA.

While the Trump Administration's actions are a positive step forward. Congress must still act to provide long-term certainty for both agencies and the regulated community.

I know that some of my colleagues on the other side of the aisle may try to portray efforts to amend NEPA as benefiting only a select few. However, the truth is that amending and reforming NEPA will aid all sectors of our economy, creating benefits for all Americans.

We have discussed previously, energy demand is skyrocketing, and the AI arms race is underway. If we want to ensure a future where America remains a beacon of liberty and freedom, we must reform our permitting processes to bolster energy and national security and enhance American economic competitiveness.

I look forward to hearing the testimony from some of today's leading experts on the issue and I also want to say that this should be a bipartisan effort. And I think it will be a bipartisan effort because I think Republicans and Democrats alike see that the process needs to be fixed, not only to get some certainty into project investment, but also to protect the environment and to achieve the goals that were put in place many congresses ago, when NEPA was passed and when the underlying statutes like ESA and MMPA and the ones that Energy and Commerce has jurisdiction over.

If we really want to implement these statutes and see America grow and also see our economy and our environment thrive, then it's time to do NEPA reform with that I yield back and recognize Ranking Member Huffman for an opening statement.

**Ranking Member Jared Huffman (D-CA):** Thank you, Mr. Chairman. So NEPA, this is a cornerstone of democracy and good governance, notwithstanding everything that you just heard. It helps ensure that major federal decisions are made transparently, with input from communities that they impact with some understanding of the environmental, health and cultural consequences of these actions.

NEPA is about basic accountability. It ensures the federal government listens before it acts to a community near a new federal highway, to indigenous communities when a pipeline cuts across their lands, to the public before major land management decisions are made that affect water, wildlife and communities for generations. NEPA requires agencies to consider the facts, disclose the consequences, and then engage the people who have to live with the results.

Now, Democrats have a proven commitment to building critical infrastructure like the transmission and clean energy that we need to address the climate crisis. We can build faster, smarter and without sacrificing environmental safeguards, and this is where the conversation sometimes breaks down.





From Congress to the courts to the Biden and Trump Administrations, there's been a lot of changes to permitting in the past two years. Any further reforms that we contemplate should lead to concrete benefits for our climate and for clean, affordable energy, and not take us backward in ways that will have unfortunate consequences down the road.

For all the American families who have been overburdened by unsafe pollution, we must use NEPA to maintain protection for health and the environment to ensure that our air, water and all the lands we steward under this committee's jurisdiction can provide for our children and our children's children.

The good news is, we can do all of these things and build things more quickly. The most effective, proven way to accelerate permitting, if that's what we really care about for infrastructure, is to ensure that we have enough experience, knowledgeable professionals at permitting agencies.

It's that simple. That's why Democrats funded \$1 billion in the inflation Reduction Act to do that, and it was working. Mr. Chairman, I noted that you use data from 2020, we should use data from last year. The Biden Administration cut the time that it takes to complete an environmental impact statement by eight months. 23% faster than the first Trump Administration, and in 2024 the median time to complete an EIS this is for the biggest, most complex federal actions, was about two years.

Republicans just rescinded most of the funds that helped us achieve all of that progress. On top of these cuts, Elon Musk's DOGE for 7500 dedicated public servants out of interior 15,000 out of the Department of Agriculture, thousands more from the Department of Energy, EPA and commerce.

Many agencies have since actually, when they figured out the consequences of all these reckless cuts, tried to rehire permitting staff, realizing that it was going to affect permitting timelines. But the damage has been done. Now this administration's proposed budget and the partisan appropriation bills currently moving through Congress would further hollow out these agencies.

And that's not all. Trump and his allies are upending the rules and regulations that hold the permitting system together. They're repealing the CEQ unifying NEPA regulations, throwing out what provided a central, unified playbook for navigating the review process, regardless of the agencies, and we're going back to a series of piecemeal rules and regulations that will confound project developers.

Rather than certainty, developers are facing more chaos, none more so than those who try to build clean energy under this administration. Some Republican colleagues in this very room used to say they were for all of the above energy, but I haven't seen them lift a finger to push back on this administration's shameless attacks on wind and solar.

Last week, interior announced that every single permit or approval for every wind and solar project that interior touches will now require sign off from the Secretary himself. They're also blocking wind and solar developers from using a taxpayer funded innovative permitting tool, the very type of technology that we say we all support to make permitting more efficient.

This is not leveling the playing field. It is adding red tape to sideline the cheapest, quickest and cleanest sources of electricity that can power our economy.

Republican attacks on these industries will jack up prices for American families and kill nearly a million jobs across the country by 2030.





So, talk about technology neutral permitting reform is pretty meaningless, pretty empty, when all of this is happening on top of the handouts for fossil fuels in the Republicans, big, ugly bill. The only abundance that we'll see is for the Big Oil billionaires who profit from Republican tax breaks and land giveaways.

So, as we talk about permitting today, Mr. Chairman I urge all of our colleagues to keep that context in mind, to keep one question front and center, who benefits from cutting permitting safeguards, because right now, I promise you, it sure is not the American people. I yield back.

## **Witnesses**

**Mr. Tony Boals**, Board Member, American Road and Transportation Builders Association; and Vice President, Wright Brothers Construction Company, Inc.

### [Testimony](#)

**Mr. Tony Campbell**, CEO, East Kentucky Power Cooperative

### [Testimony](#)

**Mr. Andrew C. Mergen**, Faculty Director, Emmett Visiting Assistant Clinical Professor of Law, Emmett Environmental Law and Policy Clinic, Harvard Law School

### [Testimony](#)

**Mr. Alex Herrgott**, President and CEO, The Permitting Institute

### [Testimony](#)

## **Q&A**

**Rep. Tom McClintock (R-CA)** stated that everything in life that makes everything possible is mined or grown but NEPA creates barriers to that. He asked Mr. Herrgott and Mr. Boals who would benefit from NEPA reform. Mr. Herrgott said everyone would benefit, especially projects trying to beat the clock on the expiring IRA provisions. Mr. Boals said the general public and taxpayers. Rep. McClintock summarized that anyone who uses anything that is mined or grown would benefit and asked Mr. Herrgott who benefited from the status quo. Mr. Herrgott said no one did. Rep. McClintock disagreed and said the litigation industry and environmental charlatans were benefiting from the current process. Mr. Herrgott agreed and said he would be an engineer or environmental consultant as Mr. Boals added those who charged by the hour to review environmental applications. Rep. McClintock asked how much they charged, and Mr. Boals said he could not speak to that. Rep. McClintock spoke about his work on fire and water issues, those problems all stemmed from NEPA, and NEPA was harming the forest more than helping it.

**Ranking Member Jared Huffman (D-CA)** stated that there was no certainty for businesses under the current administration, especially in environmental review, rather lots of chaos and a bureaucratic free for all. He asked Mr. Mergen if he thought the uncertainty would bring more litigation or less. Mr. Mergen said it would bring more litigation and less prosperity and growth over the near term and spoke about the natural gas industry feeling unsettled in the current environment due to the variation from agency to agency. Ranking Member Huffman talked about Mr. Herrgott's testimony about the limbo before the





environmental review process and said that work was due diligence in moving forward with a project and asked Mr. Mergen what his experience with the pre-NEPA period was. Mr. Mergen said that he was confused by that dichotomy, agreed it was due diligence in project preparation. Ranking Member Huffman said they should not blame NEPA for people doing due diligence. Mr. Mergen agreed.

**Rep. Doug LaMalfa (R-CA)** argued that NEPA processes are far too long and convoluted, stating that it ultimately serves as a roadblock for potential projects. Rep. LaMalfa also argued that more money and staffing do not improve the process. He noted the need for more categorical exclusions and asked Mr. Herrgott how the number of these exclusions can be increased. Mr. Herrgott argued that there is a lack of transparency around current exclusions and added that they often take years to approve. Rep. LaMalfa noted that the amount of time these projects are delayed can have significant consequences and implications for the success of the project. Rep. LaMalfa then discussed efforts to electrify the grid and noted the amount of time permitting takes around mining, particularly copper. Rep. LaMalfa asked how this long permitting process helps improve the grid. Mr. Herrgott said it does not help and argued that the U.S. needs to remove obstacles for mining, transmission, and all other sectors. He argued that, without changes, the U.S. will not be able to continue competing with China, especially around minerals.

**Rep. Emily Randall (D-WA)** discussed tribal nations and expressed concern that the recent sweeping changes to permitting and staffing could undermine the trust and commitments to these communities. Rep. Randall said the recent changes have reduced the time tribal nations have to review projects for environmental impacts to 7 days. Rep. Randall noted that tribes primarily use the NHPA to advocate for protections and asked if changes to the NHPA will adequately protect tribal nations. Mr. Mergen said no and argued that recent changes to NHPA are a stark departure from typical DOI protocol. He said there is a place for emergency, accelerated reviews but that DOI's recent actions abandon commitments to tribal nations and completely cut them out. He emphasized that these communities provide extremely insightful input as well. Mr. Mergen additionally argued that, while still work to be done, the NEPA progress has been improved and reiterated that tribes have significant expertise.

**Rep. Cliff Bentz (R-OR)** said that we are behind China when it comes to electrical generation and that the US is getting caught up in policy debates. He asked what Mr. Campbell would suggest that Congress do first. Mr. Campbell said that the US needs more power generation to support the growing demand of data centers. He said that the NEPA process does not do away with environmental considerations, but that time limits should be introduced to move more quickly. Rep. Bentz asked if the permitting process should be set aside to speed up operations. Mr. Campbell said the process should be modified to have an end date, not eliminated. Rep. Bentz said that section 7 of the ESA is being used as an extortionary device to force people trying to get permits to pay large sums of money to state agencies. He asked Mr. Herrgott if buying their way around the process is the solution. Mr. Herrgott said that mitigation can work in many ways and that discretionary decisions are made about objective laws, leading to fear-based decision-making in the permitting process.

**Rep. Luz Rivas (D-CA)** asked Mr. Mergen to confirm that section 60026 of the OBBB allows project sponsors to pay a fee to expedite their project's environmental analysis and environment impact studies. Mr. Mergen confirmed that this is correct. Rep. Rivas asked Mr. Mergen to confirm that section 50101 of OBBB resumes non-competitive leasing and mandatory quarterly lease sales for onshore oil and gas-drilling, and he confirmed that it is correct. Rep. Rivas confirmed with Mr. Mergen that section 50102 of OBBB mandates 2 offshore lease sales off the Gulf of Mexico every year until 2039. Rep. Rivas confirmed with Mr. Mergen that section 50201 removes DOI's discretion in coal-leasing and mandates that the lease be granted. She asked Mr. Mergen to talk about the harmful impacts that the OBBB will have on working-class communities that have carried the environmental burden for decades. Mr. Mergen





said that the NEPA process allows for public engagement, raising awareness to the substantial health effects on oil and gas-drilling. He said that the NEPA process can help avoid or mitigate these adverse effects to help these communities. He also said that this bill is damaging to these communities in general and said that information and an informed public are necessary to permitting reform, needs that are being lost. Rep. Rivas agreed that taking down information and not providing communities burdened with environmental injustices is harmful.

**Rep. Pete Stauber (R-MN)** spoke about the smaller projects impacted by NEPA's failures, such as roads and bridges. He asked Mr. Boals to expand on the practical impact NEPA delays had on the fate of a project, as well as the local, county and state governments that were looking to build a road, bridge or other traditional infrastructure. Mr. Boals said that challenges happened with state DOTs as they attempted to go through NEPA, as the uncertainty causes delays and understated budgets, but the NEPA process was good as it gave communities a chance to see how the project will affect the area economically and geographically. Mr. Boals advocated for standardizing the process. Rep. Stauber said the certainty was important for investment funds to meet the scope of the project. He discussed his experience with projects held up by NEPA in Minnesota with the weather resulting in increased cost on the taxpayers. He asked Mr. Campbell if his electric utilities were owned by the customers and individual cooperative members and who paid the price for NEPA reviews and lawsuits. Mr. Campbell said the customers and individual cooperative members were the owners and they were ultimately the ones who paid the price for NEPA reviews and lawsuits. Rep. Stauber emphasized that corporations did not pay the costs of NEPA, customers and taxpayers did. He criticized environmental NGOs for weaponizing NEPA against every day Americans.

**Rep. Debbie Dingell (D-MI)** spoke about her husband's work on NEPA, its usefulness as a tool to ensure community input on local projects and how they will be impacted, including environmentally. She agreed that there needed to be modern reforms to NEPA but said the proposals from the other side of the aisle just stood to weaken NEPA and local communities' roles in the permitting process. She said there was a misconception that they had to choose between environmental protection and accelerating clean energy permitting, rather they could and must do both. Rep. Dingell noted the two variables impacting a review were the applicant and the administration and acknowledged claims that the federal review process caused significant delays. She asked Mr. Mergen what the largest contributor to delays were during NEPA reviews. Mr. Mergen said inadequate staffing and inadequate expertise were the largest contributors to delays on the federal side, and on the applicant side, it was important that they provide accurate and complete information. Rep. Dingell asked Mr. Mergen if the administration's recent actions related to the federal workforce helping or delaying NEPA reviews. Mr. Mergen said they were substantially delaying them and advocated for a trained workforce. Rep. Dingell asked Mr. Mergen what the average number of NEPA reviews was being challenged in court. Mr. Mergen said the average was in the 20% range and focused on remedy and relief when injunctions were entered, and advocated for a fully funded Department of Justice to assist with this.

**Rep. Jeff Crank (R-CO)** noted the delays that litigation can cause, sometimes prolonging projects by years. Rep. Crank noted that litigation strains agency resources and prevents projects from continuing, arguing that NEPA's fairly vague language is the cause. Rep. Crank highlighted decisions by SCOTUS which have sought to reign in overreach but added that most cases do not reach the court and seek to circumvent some of the high court's decisions. Rep. Crank asked Mr. Herrgott what tools or legislative efforts Congress could pursue to codify permitting reform so that SCOTUS' ruling is adhered to. Mr. Herrgott said project proponents are winning cases at a 5-1 rate but highlighted that the time and its financial impact are what make litigation so damaging. Mr. Herrgott argued that concern over potential





litigation is a big reason applications are so expensive and burdensome, especially around pipelines. Mr. Herrgott emphasized that projects simply won't be built if there side boards are not placed on litigation.

**Rep. Julia Brownley (D-CA)** asked Mr. Mergen to expand on his earlier comments around the DOI's new alternative arrangements under NEPA and highlight other impacts. Mr. Mergen highlighted that the NEPA process allows local communities to weigh in and make their voices heard when it comes to projects such as those involving oil or minerals. Mr. Mergen argued that it is profoundly concerning that DOI is taking this participation away and added that it could insert significant litigation risk into the process. Rep. Brownley asked if the oil and gas industry will exploit these new rules. Mr. Mergen said absolutely and also highlighted that the lack of stability that DOI is establishing could create an unfair playing field for more responsible companies and entities. Rep. Brownley then asked Mr. Mergen how the decision in the Seven County Infrastructure Coalition vs. Eagle County case could undermine the core benefits of NEPA. Mr. Mergen said time will tell on this decision and argued that it is important to ensure that limits on foreseeability do not eliminate the ability to determine factors like cumulative effects. Rep. Brownley asked Mr. Mergen what recommendations he would have to reform the permitting process. Mr. Mergen argued that the U.S. needs a well-trained and informed civil services to help conduct reviews and leverage technologies to accelerate decisions.

**Rep. Tom Tiffany (R-WI)** asked Mr. Herrgott if delay is death and Mr. Herrgott said absolutely. Rep. Tiffany asked if the originators of NEPA envisioned it becoming what it is today. Mr. Herrgott said absolutely not. Rep. Tiffany said that foresters are in a significant minority, despite hiring in other areas. He said this has led to a higher rate of fires, showing a chart. He asked Mr. Boals for an example of a project in which timelines are extended significantly for the American Road and Transportation Builders. Mr. Boals said that he does not have any personal examples but noted that his colleagues have experienced delays extending the construction process. Rep. Tiffany asked if the NEPA process ends up extending the projects into decades, not just years. Mr. Boals said that they continue to extend until the process is over. Rep. Tiffany confirmed that means that these delays are still not over, then. Rep. Tiffany asked Mr. Campbell if the grid has become more unstable over the last decade. Mr. Campbell said yes, noting that load growth is significant and that a lot of baseload power plants have been closed.

**Rep. Susie Lee (D-NV)** said the US Energy Information Administration has noted that NV leads the nation in solar-power potential. She said that almost 1/3 of NV's electricity comes from solar and that the solar industry has invested \$12.5 billion in private investment into NV, creating many jobs. She asked Mr. Mergen if NV has the most to lose from the new DOI red tape requiring that Sec. Burgum personally sign off on nearly every permit for solar and wind projects. Mr. Mergen agreed that the potential for solar energy in NV is enormous. He said that the DOI memo goes against the claims that permitting reform should not pick and choose between infrastructure projects. He said that the solar innovation in NV can still move forward. Rep. Lee asked Mr. Campbell if he agrees that permitting should not be a process of picking and choosing. Mr. Campbell agreed and said that this is part of the problem with the NEPA process. Rep. Lee asked Mr. Herrgott if the actions, such as this new wind and solar permitting directive, are moving Congress closer to bipartisan reform or driving them further apart. Mr. Herrgott said that he views the EO in a different way. Rep. Lee said that this directive is picking winners and losers on the energy spectrum, with solar and wind as the losers.

**Rep. Tim Walberg (R-MI)** said NEPA was originally intended as a tool for stewardship in economic development but over time had become a bureaucratic maze that added years and millions of dollars to vital projects. He emphasized the dangers of delays and advocated for responsible environmental review without endless red tape and lawsuits. He asked Mr. Campbell how prolonged NEPA reviews affect the cost of energy infrastructure and by extension, utility bills and fuel prices for working families. Mr.





Campbell said that the longer it goes, the higher the cost, the industry was overwhelmed with load, and needed new generation built now so they could continue to provide adequate power for consumers. Rep. Walberg discussed the Seven County Supreme Court decision and provisions in the FRA that impose page and time limits, establish a lead agency in the NEPA review process and clarify the definition of major federal action. He asked Mr. as federal agencies implement the FRA provisions, what were some legislative solutions they could use to compliment the actions to speed up the development of energy infrastructure projects to support American energy dominance. Mr. Herrgott said they needed a tort law standard dealing with causal link, statutorily codify the Seven County decision, and making everything transparent by starting the clock at the beginning of the project rather than the end.

**Ranking Member Huffman** expressed his confusion about some of Mr. Herrgott's testimony and asked if he was aware that all federal permitting for offshore wind was halted by the President and if he agreed with that. Mr. Herrgott said he was aware, it was not his job to agree or disagree with a tax credit, but anyone that put capital at risk, people needed to get out of their way. Ranking Member Huffman asked if Mr. Herrgott disagreed with the stop. Mr. Herrgott said elections had consequences and when democrats stop oil and natural gas, he did not get in their way. Ranking Member Huffman spoke about the extra layer of red tape on wind and solar needing approval by Secretary Burgum, noting the existing regulatory red tape was still there. He asked Mr. Herrgott if he truly believed that was justified in the spirit of visibility and transparency. Mr. Herrgott said executive orders without formative guidance, it was elevated to the S1 so the decision was simply calling a spade a spade and offered one person to blame rather than 50 strangers. Ranking Member Huffman summarized that Mr. Herrgott thought this was important for transparency and accountability and asked if he would support that for oil and gas. Mr. Herrgott said he did, and Sec. Burgum could authorize a decision on his own. Ranking Member Huffman criticized the administrations bias towards oil and gas and the war on clean energy. He asked Mr. Mergen if there was any good reason for bias against wind and solar and for oil and gas. Mr. Mergen said he could not. Ranking Member Huffman spoke about technology helping to speed up the regulatory process and asked Mr. Mergen if there was a good reason why it was available for fossil fuel projects but not clean energy. Mr. Mergen stated there was not and it was the very definition of arbitrary and capricious.

**Rep. Nick Begich (R-AK)** argued that NEPA, while well intentioned, has hindered development and the ability of projects to be approved. Rep. Begich highlighted a project in Alaska which is facing delays and increasing costs, blaming NEPA for these challenges. He argued that reforms can help streamline processes and reduce litigation. Rep. Begich asked Mr. Mergen if he believes those who want to reform NEPA are incorrect. Mr. Mergen clarified that he believes the Committee should be cautious in the steps it undertakes. Mr. Mergen said he favors efforts to leverage technology to improve NEPA processes but that the landscape has drastically shifted since the FRA and 7 County decision. Rep. Begich noted Mr. Mergen's assertion that NEPA is improperly blamed for delays and extra costs, asking if he believes those who argue otherwise are wrong. Mr. Mergen argued more data is needed about EIS, EA, and CE to fully assess where these issues may exist. He argued that NEPA is there to inform and not stop projects.

**Rep. Sarah Elfreth (D-MD)** criticized efforts to reduce the federal workforce and asked Mr. Mergen what other recommendations he agrees with. Mr. Mergen reiterated his belief that there is a role for technology to help accelerate these processes and decision-making across the board. Mr. Herrgott said he'd like to believe that everyone agrees that there is a problem. Rep. Elfreth asked Mr. Herrgott what solutions he agrees with. Mr. Herrgott emphasized that civil servants don't have access to AI modeling or processing themselves, noting that this is done by third parties. Mr. Herrgott argued that the civil service simply isn't trained sufficiently for the rapidly changing environment and to accommodate technologies. He emphasized that the core issues are processed based and do not exist in any single industry. Rep. Elfreth argued that this means more funding is needed. She then asked Mr. Campbell the same question.





Mr. Campbell said NEPA is very different from its original intention and argued that Congress needs to make changes.

**Rep. Harriet Hageman (R-WY)** said that wind and solar are not affordable or reliable, noting that WY is the largest producer of coal in the nation. She said that coal in WY needs to go through 3 layers of NEPA review and asked Mr. Hergott if there are other project areas that are subject to multiple rounds of NEPA review. Mr. Hergott said yes. Rep. Hageman said that certainty and stability are necessary, and Mr. Hergott said that, if the US remains on its current path, he is unsure who will invest in projects. Rep. Hageman asked what that does to our ability to produce reliable and affordable energy to meet the demands of the country. Mr. Campbell said that changes are needed and that fossil fuels are not the enemy that everyone makes them out to be. He said that renewable and nuclear energy are needed too. Rep. Hageman said that NEPA has been used as a weapon by environmental groups to stop projects. Mr. Campbell said that the system is being manipulated on both sides. Rep. Hageman said that the system is being manipulated and that there is a war on coal, pipelines, and natural gas. Rep. Hageman asked how to move forward with these projects with NEPA in its current condition. Mr. Boals said a concise, defined process is the only way to proceed. Rep. Hageman asked if it is Congress' responsibility to reform the way in which permits are interpreted and applied. Mr. Boals said that looking at the individual permits may be necessary, but that outlining the NEPA process is a good place to start.

**Rep. Dave Min (D-CA)** said that, currently, solar energy costs \$55 per megawatt hour, expected to drop to \$25 in the next 20 years. He said that wind energy is \$40 per megawatt hour and is expected to drop to \$35. He noted that an all-of-the-above approach to energy should have a place for renewables. He noted the need for permitting reform but said that it is hard to ignore that the majority is trying to give away public lands to the fossil fuel industry and mining interests. He said that it is also hard to ignore NEPA reform in the wake of cuts to agencies that are responsible for approving NEPA reforms. He asked Mr. Mergen what the aggregate impact of these staffing cuts will have on permitting review. Mr. Mergen said that they substantially delay the process, noting that a trained staff is necessary to improve the permitting process. Rep. Min said that cutting large numbers of staff will have a huge impact on permitting and asked about the impact of putting all of the decisions for wind and solar into Sec. Burgum's hands. Mr. Mergen said that this will lead to further delay and a loss of credibility in permitting reform efforts, since it indicates that sides are being chosen. Rep. Min said that eliminating environmental regulations and permitting approval are counterproductive.

**Rep. Jeff Hurd (R-CO)** discussed the failure of previous legislation to effectively streamline the permitting process, specifically page limits set in the FRA, asking Mr. Herrgott if appendices to the reports were included in the page limits. Mr. Herrgott said they were not. Rep. Hurd asked Mr. Herrgott where the funding for litigation against NEPA coming from. Mr. Herrgott said it was coming from fundraising from NGOs, groups fighting against fossil fuels, energy competitors, and private property owners. Rep. Hurd asked if Mr. Herrgott was aware of any situation in which government grants or proceeds from former environmental settlements were used to finance those lawsuits and Mr. Herrgott said he was not. Rep. Hurd asked Mr. Herrgott if funds from the IRA for permitting assistance that did not alleviate the backlog proved that the issue was not just about funding, but also about the need for deeper structural reforms. Mr. Herrgott said it was. Rep. Hurd asked Mr. Mergen for his feedback on Mr. Herrgott's testimony about the FRA, specifically that lead agency designations and joint reviews could be improved. Mr. Mergen said the lead agency aspect was important, and there innovative ways to manage the process, such as dashboards, but the question was if the lead agency issue was better handled administratively or regulatorily.





**Rep. Maxine Dexter (D-OR)** said she was heartened by the discussions about using data, technology, and common sense to create a clear administrative process for permitting, but that was not what the current administration was doing. She spoke about the President's energy emergency and DOI's alternative arrangements for NEPA reviews, resulting in the BLM approval of a uranium mine in eleven days. She asked Mr. Mergen if he believed there was legitimate consideration of public concerns, tribal consultations, or consideration of alternatives in that eleven-day process. Mr. Mergen said he did not. Rep. Dexter asked Mr. Mergen about the precedent for this, under what circumstances alternative arrangements had been used in the past and why this one was different. Mr. Mergen said CEQ has kept information about the deployment of alternative arrangements historically, which was in response to natural disasters, but this was being leveraged for an energy emergency without evidentiary support. Rep. Dexter emphasized the importance of an effective permitting process and that development must be paired with early, meaningful engagement with local and tribal communities. She asked Mr. Mergen how they could strike the right balance between moving essential development forward while still being able to consult with the public. Mr. Mergen agreed and spoke about time of engagement and how the engagement was responded to, emphasizing the importance of early community engagement and the need for information. Rep. Dexter reiterated the importance of data informed decision making and equitable application of processes was essential. She asked Mr. Mergen what strategies he thought would be the most efficient and effective for making public engagements. Mr. Mergen said technology was the way forward. Rep. Dexter noted it was important to acknowledge when other things, such as the Clean Air Act or Clean Water Act were the burden rather than always blaming NEPA.

**Rep. Amata Coleman Radewagen (R-AS)** asked the witnesses to expand on the role that technology can play in the permitting process. Mr. Herrgott said that fully leveraging AI is probably a few years away but argued that it could help reduce permitting time by 30% to 40%. He emphasized that there still needs to be fundamental and structural reform. Mr. Mergen argued that we are fairly close to being able to utilize AI, especially when it comes to assessing general permits. Mr. Campbell noted that he did not have expertise in this area but argued that more must be done now. Mr. Boals argued that e-filing and more streamlined accessibility would help greatly. Rep. Radewagen then noted litigation and asked if there are concerns that narrowing regulations could lead to increase litigation and what types of changes need to be made to improve clarity. Mr. Herrgott argued that the lack of Congressional action around permitting has allowed litigation to prevail due to opaque statutes. He suggested that the Committee work to codify the 7 Counties decision.

**Rep. Darren Soto (D-FL)** expressed his support for NEPA and acknowledged that it does sometimes require reform. He noted the two recent reforms around permitting, one through the courts and one through Congress via the Fiscal Responsibility Act. He asked Mr. Mergen how these major reforms have shaped out. Mr. Mergen said there were course corrections even before the 7 County's case and noted that there hasn't been enough time since FRA. Mr. Mergen argued that the policies in FRA should help agencies become more efficient. Rep. Soto then asked Mr. Campbell what issues he has faced with NEPA around his clean energy projects. Mr. Campbell said they have not reached that stage yet. Rep. Soto then asked what challenges Mr. Campbell expects to face in terms of these projects. Mr. Campbell said EIS studies are taking too long as well as transmission issues. He added that the 150 page limit will be helpful.

**Rep. Melanie Stansbury (D-NM)** asked why these issues are being discussed over and over again and if the end goal is solving problems in the permitting process or repealing NEPA. She spoke on the origins of NEPA, noting that it had bipartisan support when it was introduced. She raised concerns that the republicans' the goal is gutting public review and eliminating NEPA.





**Rep. Jen Kiggans (R-VA)** said that NEPA has turned into a long and unnecessarily complicated process. She asked Mr. Herrgott to elaborate on how NEPA can impact military readiness and how Congress can improve and expedite the processes of environmental permitting. Mr. Herrgott said that delays are affecting projects relating to the military. He said that federal employees are not incentivized to speed up a project and Rep. Kiggans said that this needs to change because the speed of the process is impacting national security.

**Rep. Val Hoyle (D-OR)** stated they needed to build more and improve infrastructure in every corner of the country, as investments in infrastructure brought high quality jobs and economic growth. She noted that they can build more while also protecting the environment and tackling climate change, but under the current system, the permitting system took too long, burdensome and needed more clarity. She asked Mr. Mergen what the most common causes of project delays were. Mr. Mergen said the most common delay was lack of capacity in the agency to process applications and agreed that they need more study of this. Rep. Hoyle spoke about her district's lack of broadband coverage. She asked Mr. Campbell if he was able to successfully use funds for broadband from IIJA and how staffing shortages at federal agencies impacted the permitting process. Mr. Campbell said he was not sure about staffing but for rural broadband expansion, they were facilitating that with contractors. Rep. Hoyle asked Mr. Campbell if he agreed it was critical to get broadband to rural and frontier communities at the same level of priority and investment as rural electrification. Mr. Campbell said it was, and it was in the interest of rural co-ops to facilitate that.

**Rep. Yassamin Ansari (D-AZ)** spoke about the cost-of-living crisis and noted the importance of the clean energy tax credits that were gutted in the OBBBA that would result in increased energy prices for consumers. She emphasized the need to meet growing energy demand quickly and in a way that did not drive-up costs for consumers, noting the quick, and less expensive deployment timelines for solar and wind energy over older generations. She asked Mr. Mergen without the clean energy tax credits, if electricity would cost rate payers less or more. Mr. Mergen said electricity would cost more. Rep. Ansari said they would keep fighting for clean energy and a better future. She asked Mr. Mergen what he had learned about NEPA procedures, where there was room for improvement, but also why the procedures were important for federal decision making. Mr. Mergen said that litigation had created problems for the implementation of projects, but the trend was in the right direction, as courts were playing less of a role as spoilers, and emphasized the important role of the public and the common sense they bring.

**Rep. Russ Fulcher (R-ID)** noted that mining projects can take 7 to 10 years, highlighting that a recent mine just received approval after 18 years. Rep. Fulcher asked Mr. Herrgott to discuss his recommendations for statutory and regulatory reform. Mr. Herrgott stated that these arguments are often not about NEPA and are instead about tax credits and other things. He argued that NEPA is a convenient statute to bring all relevant information to the table and make an informed decision. He said the reality is that reviewers kill projects if they don't meet standards which were drafted and instituted decades ago. Rep. Fulcher asked how this problem is fixed. Mr. Herrgott argued that there needs to be a complete redesign of the process in a rational way. Rep. Fulcher noted a project in Idaho implementing transmission lines, highlighting that it has been underway for 20 years. He asked Mr. Campbell what changes need to be made so that these projects can be completed. Mr. Campbell argued that there needs to be restrictions on how long litigation can carry forward.

**Rep. Teresa Leger Fernández (D-NM)** criticized criticisms of NEPA and argued that it promotes local collaboration with communities, industries, and others. She argued that this participation should be encouraged and argued that Republican's are seeking to bypass this local involvement. Rep. Leger Fernandez noted that there has been progress in accelerating processes but noted that staffing reductions have limited that progress. Rep. Leger Fernandez then noted that Mr. Herrgott has advocated for Congress





to codify the 7 County decision and asked if he agrees that greenhouse gas emissions are a direct result of producing and transporting fossil fuels. Mr. Herrgott argued that NEPA requires a review of direct and indirect impacts based on what statutes say and currently that is not required. Mr. Herrgott said it increases emissions but noted that the statutes around direct impacts will need to change. Rep. Leger Fernandez asked how the U.S. can be an energy dominant country if it does not build wind and solar. Mr. Mergen said the U.S. can't.

**Rep. Adam Gray (D-CA)** said that there is an opportunity to develop the water infrastructure needed to support drought resilience and protect CA's agriculture economy. He said that the permitting process delays the implementation of these projects and noted that delays increase prices. He asked Mr. Herrgott what impacts litigation has had on the NEPA review process and how Congress can set reasonable accountability and timeframes around these projects. Mr. Herrgott said that transparency in facts is necessary and that projects should be trackable in real time. Rep. Gray asked, based off existing projects and litigation, how long Mr. Herrgott would estimate it would take to build just one water storage project in CA. Mr. Herrgott said that after all the assessments, it will take between 5-15 years or never. Rep.

**Rep. Scott Peters (D-CA)** discussed the current energy mix in China, which includes fossil fuels and renewable energy sources. He said that the US is not properly competing against China and that OBBB will move us further backward. He said that he wants to hear from the people working on developing clean energy projects, who are not included in the hearing. He said that the fear of investment due to the delayed process is a major issue resulting from NEPA. He said that Republicans need to agree to enforce the law, calling out Mr. Herrgott's statement that he cannot comment on the claim that the President is messing with issued permits on offshore wind. He said that he requires assurance from the other side of the aisle that they will encourage their President to act in accordance with Congress if he is going to work on a deal for permitting reform. He said that the Executive branch should back up Congress's decision.

**Chairman Bruce Westerman (R-AR)** emphasized the bipartisan, bicameral need for permitting reform, citing widespread frustration from stakeholders across the country. He asked Mr. Mergen whether recent administrations, including Biden's and Trump's, had acted unlawfully by favoring certain energy sources, and whether NEPA reform could eliminate such bias. Mr. Mergen said that while Congress can legislate preferences, NEPA should remain neutral, and acknowledged a perceived bias against renewable energy. Chairman Westerman described the permitting process as often burdensome and costly, with little environmental benefit, and asked Mr. Campbell and Mr. Boals if streamlining was possible without compromising standards. Both said it was, with Mr. Campbell stressing the need for predictability and equal treatment of energy sources, and Mr. Boals highlighting the value of consistency and structure. Chairman Westerman pointed to permitting delays even in bipartisan efforts like the CHIPS Act and IJIA, arguing for a process that is fair, environmentally sound, and includes meaningful public input. He asked the witnesses if they had anything they would like to add. Mr. Boals said the discussion had covered all bases. Mr. Campbell said he believed the issue was solvable for the benefit of all Americans. Mr. Mergen stressed the importance of public participation and a stable process. Mr. Herrgott called on Congress to take responsibility for statutory reform, urging separation of permitting from political energy debates. Chairman Westerman agreed with Mr. Herrgott's recommendation to let permitting be blind to technology or project type and allow the market to decide what gets built.

*Chairman Westerman brought the hearing to a close.*