

September 6, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader Hoyer and Leader Schumer,

On behalf of 122 organizations, we write to express our strenuous opposition to the passage of legislation that would limit review, public input, and government accountability in the permitting review process. In recent weeks, draft legislative language surfaced that is apparently the base of a permit reform proposal now being advanced by Senator Manchin as an additional piece of potentially damaging compromise in exchange for his already provided vote on the IRA. Stamped with the watermark of the American Petroleum Institute (API), the proposed text advantages the fossil fuel industry at the expense of the health and voices of local communities around the country. Rather than prioritize the interests and profits of polluting industries, we urge you to prioritize advancing the Environmental Justice for All Act, which will promote the efficient and equitable development of critical infrastructure and a clean energy economy.

The API-labeled bill prioritizes dirty fossil fuel build out, privileges project sponsors over communities, and will entrench environmental racism into decisionmaking by sidelining the voices of impacted stakeholders. The ways in which this API-labeled bill codifies bias, in favor of private profit over the public interest, warrant particular attention. The entire permitting scheme is premised on quickly approving industry preferred outcomes by allowing agencies to give greater consideration to industry's preferred alternatives in the review process, making it harder to extend public comment periods, and discouraging agencies from even asking project sponsors for legitimately needed information for a decision. Worse yet, when the government fails to adequately consider impacts on communities or meaningfully engage impacted stakeholders, the bill reduces the statute of limitations from six years to 150 days. Severe limitations on judicial review are clearly aimed at limiting frontline communities from holding industry and the government accountable for illegal projects and will have the unintended consequence of significantly increasing the amount of litigation over projects as plaintiffs rush to court to preserve their claims. Worse still, the draft bill sets a dangerous precedent by altering how courts assign cases -- the fossil fuel industry shouldn't be allowed to buy itself a different panel of judges when it loses cases, because that's not how justice works in a democracy.

In addition, it has been reported that this bill, developed behind closed doors and at the behest of one of API's allies in Congress, may be attached to some must-pass piece of legislation such as a Continuing Resolution to fund the government. Forcing members of Congress to appease the interests of the fossil fuel industry or risk the continuing operation of the federal government or other essential functions of Congress is contrary to the public interest, political considerations, and fair process—it would be

reprehensible and an astonishing abdication of congressional responsibility. Process matters, and this bill has had no input from communities affected by fossil fuel infrastructure projects or outside environmental experts, no relevant hearings or markups, and still has not been shared publicly. It deserves to be fully aired and vetted and should not move on an expedited track.

In addition to the API bill, we have seen a one-page outline of a second version of the proposed bill that would approve the Mountain Valley Pipeline (MVP). MVP was originally issued permits under the Trump administration, construction began, and the pipeline is now approximately 56% complete. During construction, inspectors documented more than 1,500 instances of alleged violations of water quality regulations. The permits issued under the Trump administration were eventually overturned in federal court because they violated our federal environmental laws and threatened clean water, the ecosystem of a National Forest, and endangered species. Local communities and farms have been harmed, yet there has never been any demonstrated need for the gas that would be transported. To complete MVP would entail additional construction of more than 400 crossings of water bodies such as streams, rivers and wetlands.

We encourage Congress to instead pass the Environmental Justice for All Act, which was built from the ground up by the communities impacted the most by the climate crisis and rapid infrastructure development. The Environmental Justice for All Act is the result of a meaningful public process that prioritizes the voices of the communities, disproportionately communities of color, most impacted by environmental degradation. In process, it is in stark contrast to the closed door, backroom dealings surrounding the API-labeled bill. It represents a bold and necessary shift in the way we create federal permitting policy—it is the result of a serious and years-long effort to genuinely listen to the expertise and concerns of the very people experiencing the worst of pollution and in most need of a clean energy economy. Chairman Grijalva and Representative McEachin carefully and transparently crafted legislation that reflected those experiences and expertise while creating concrete and significant improvements to our permitting process. And, they have steered the provisions successfully through numerous hearings and a successful bill markup, and have even passed some provisions through the House.

The Environmental Justice for All Act rightly recognizes that National Environmental Policy Act (NEPA) and other permitting laws are critical tools needed to assess the health, economic, and environmental impacts of federal decisions and instrumental to ensuring that we build infrastructure that addresses climate change by reducing emissions and is climate resilient. The bill creates certainty for project sponsors and stakeholder 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.

We strongly oppose any efforts to move a fossil fuel industry wish-list that undermines environmental review and public input through Congress, particularly on must-pass legislation and without any public scrutiny or deliberative process. Many of our organizations also opposed similar fossil fuel industry-instigated policies undercutting environmental review, input from potentially impacted community members, and judicial review contained in the Infrastructure Investment and Jobs Act. These enacted provisions will already assure a process tilted in favor of energy and extraction companies over affected communities for the biggest, most potentially harmful projects.

It is well known that the climate crisis is the direct result of a fossil fuel industry built out over a century on the backs of frontline communities, at the expense of their health and their livelihood. Swift and bold action is necessary to both efficiently and equitably build out a clean energy future. Congress took meaningful steps towards ensuring efficient and meaningful reviews by allocating over \$1 billion to support the agencies with the hiring and training of personnel and improve public engagement in the environmental review process but that investment would be meaningless if the underpinning law requiring environmental review and community engagement were to be gutted by the API-labeled bill.

Congress should stand by its investment in NEPA by voting on the Environmental Justice for All Act so that the communities most impacted by fossil fuel development and first to benefit from the build out of a clean energy economy, are the first consulted in the review process. At the same time, Congress should reject any attempt to pass the API-labeled bill, especially as part of a must-pass, unrelated, or far-reaching bill like a government funding bill. The API-labeled bill seeks to continue to sacrifice frontline communities of color and communities of low income for the sake of fossil fuel industry's profits.

Sincerely,

Earthjustice
100% Campaign
198 methods
7 Directions of Service
Alabama Rivers Alliance
Alliance of Nurses for Healthy Environments
Alternatives for Community & Environment (ACE)
American Friends Service Committee
American Rivers
AMMD Pine Grove Project
Animal Law Society
Appalachian Voices
Atlantic Climate Justice Alliance
AU WCL Native American Law Students Association
Berks Gas Truth
Better Path Coalition
Black Women for Wellness
Bold Alliance
CEEJH
Center for Environmental Health
Center for Popular Democracy
Center for Urban Environmental Reform
Chispa LCV
Citizen's for Arsenal Accountability
Citizens Alliance for Fairness and Progress
Citizens Coalition for a Safe Community
Clean Air Coalition of WNY
Clean+Healthy
CleanAirNow
Climate Hawks Vote
Climate Justice Alliance
Climate Reality Finger Lakes Greater Region NY Chapter
Climate Reality Project Long Island Chapter
Coalition for Outreach, Policy & Education
Coming Clean
Concerned Citizens of Wagon Mound & Mora County
Conservation Voters New Mexico
Dayenu Rockland Westchester: A Jewish Call to Climate Action
Dayenu: A Jewish Call to Climate Action
Defenders of Wildlife
Delaware Concerned Residents for Environmental Justice

Delaware Riverkeeper Network
East Yard Communities for Environmental Justice
EJ Action Hub & Union Hill, VA Freedmen Family Research Group
Endangered Habitats League
Endangered Species Coalition
Environmental Justice Community Action Network
Environmental Justice Health Alliance for Chemical Policy Reform
Environmental Law & Policy Center
Environmental Protection Information Center - EPIC
Farmworker Association of Florida
Flint Rising
Friends of the Earth
GASP
Global Center for Climate Justice
Grassroots Environmental Education
Green America
Green Environmental Coalition / Greene County, Ohio
Green New Deal Network
GreenLatinos
Harambee House, Inc. / Citizens for Environmental Justice
Healthy Gulf
Hollis Environmental Consulting Services, LLC
Iowa Environmental Council
Kentucky Heartwood
L C Taylor & Associates
Lawyers for Good Government (L4GG)
Los Jardines Institute
Lower Susquehanna Riverkeeper Association
Midwest Environmental Advocates, Inc.
Missouri Confluence Waterkeeper
Moms for a Nontoxic New York
NAACP Pittsylvania County Branch
Nassau Hiking & Outdoor Club
National Family Farm Coalition
Native Movement
NC Conservation Network
New Mexico Environmental
Ocean Conservancy
Ocean Conservation Research
Ocean Defense Initiative
Oceana
Pennsylvania Council of Churches
People's Action
Pittsylvania County Democratic Committee
PODER
Potomac Riverkeeper Network
Preserve Montgomery County VA
Project Eleven Hundred
Renewal of Life Trust
Richmond Interfaith Climate Justice League
River Network

Rivers & Mountains GreenFaith Circle
Sciencecorps
Seattle Aquarium
Sierra Club
South Shore Audubon Society
Southern Environmental Law Center
Start:Empowerment
Stop the Algonquin Pipeline Expansion (SAPE)
Surfrider Foundation
Sustainable Finger Lakes
Texas Campaign for the Environment
Th!rd Act Virginia
The Black Hive @M4BL
The Wilderness Society
Third Act Virginia
Tishman Environment & Design Center
Union of Concerned Scientists
Virginia Citizens Consumer Council
Virginia Community Rights Network
Virginia State Conference NAACP
Voices for Progress
Waterkeeper Alliance
Waterkeepers Chesapeake
Waterway Advocates, Inc.
WE ACT for Environmental Justice
West End Revitalization Association (WERA)
Wild Virginia
Winter Wildlands Alliance
Women's Voices for the Earth
Yogaville Environmental Solutions