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A climate justice user's guide to the Manchin energy infrastructure bill

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A few weeks ago, ExxonMobil lobbyists were caught on tape bragging about their plans to undermine climate policy in coming infrastructure legislation. The strategy seems to already be paying dividends. Look no further than Senator Joe Manchin's Energy Infrastructure Act of 2021. This bill has Exxon's fingerprints all over it.

The legislation proposes to make $95 billion in infrastructure investments mainly concentrated in the energy sector. But a close look at exactly where the money is going to go reveals an undeniable bet on dirty energy from the 20th century over clean energy from the 21st. **In fact, the bill authorizes $28.8 billion in nuclear, carbon capture, and dirty hydrogen over only $410 million in direct authorizations for wind, solar, geothermal and tidal. That's a ratio of dirty to renewables of over 70-to-1. Even when combining the renewable provisions with the bill's meager storage and efficiency programs, Manchin still proposes spending twice as much on dirty than he does on clean.**

Here is a by the numbers guide to the worst-of-the-worst in the Exxon infrastructure bill.

$12.6 billion: the amount of money for carbon capture

The White House Environmental Justice Advisory Council (WHEJAC) released a report in May rejecting the narrative that Carbon Capture and Storage (CCS) projects should be implemented in communities under the guise of Environmental Justice (EJ). The next day, Gina McCarthy, speaking on behalf of the White House, blatantly ignored this EJ recommendation by talking up the role of CCS in Biden's climate policy. Dismissing the WHEJAC's recommendations further marginalizes the voices of those who would bear the burden of politicians allowing unproven technologies to embed fossil fuel infrastructure in their communities. This is just one chapter in a continual trend of politicians ignoring legitimate concerns with CCS in favor of Big Oil talking points. The result has been many high-profile projects--such as FutureGen 2.0, the Kemper power plant, and the Texas Clean Energy Project--benefiting from substantial taxpayer investments only to collapse. Senator Manchin wants to continue propping-up this polluter scheme by giving away billions of infrastructure investment to CCS.

Senator Manchin's Energy Infrastructure Act pulls much of its CCS giveaways directly from Senator Coons' SCALE Act. Notably both Senators Coons and Manchin were named as crucial allies to Big Oil in the recent video of ExxonMobil lobbyists explaining how they work with politicians to undermine climate policy.

Included in both the original SCALE Act and the Manchin bill is the new Carbon Dioxide Transportation Infrastructure Finance and Innovation (CIFIA) program. This promises subsidized, low-interest loans for a litany of projects expanding CCS infrastructure, including CO_2 pipelines. The current program is authorized $2.1 billion over the next five years. The CIFIA projects would embed sacrifice zones by targeting areas already impacted by fossil fuel infrastructure. These communities already suffer the environmental and health burdens of oil and gas infrastructure and CIFIA funding would entrench this fossil fuel infrastructure rather than retire it and remediate the harms.

Often, CCS infrastructure like pipelines are designed to capture CO_2 in order to help stimulate oil production--and sometimes, this infrastructure dangerously malfunctions. This is what happened last year in Yazoo County, Mississippi - a community of majority Black residents and where 34% of the population lives in poverty. A pipeline carrying CO_2 for enhanced oil recovery ruptured and exposed the community to high concentrations of carbon dioxide, requiring area residents to seek medical treatment. The rupture also killed significant amounts of plants and wildlife in the area.

These are some of the other prominent CCS provisions in the Manchin bill:

- Large Scale Carbon Storage and Commercialization Program: A major new grant program to subsidize "expanded commercial large-scale carbon sequestration projects and associated carbon dioxide transport infrastructure, including funding for the feasibility, site characterization, permitting, and construction stages of project development."
    - Authorization: $2.5 billion over 5 yrs (FY22-26)

- Carbon Removal Program: funding to create four regional direct air capture hubs. The projects are to be located in a region with existing carbon intensive fuel production or industrial capacity, or such capacity that has retired or closed in the preceding 10 years. At least two of the hubs are to be built in economically distressed regions with high coal or shale gas resources.
    - Authorization: $3.5 billion over 5 yrs (FY22-26)

- Carbon Capture Large-Scale Pilot Projects, originally authorized under the Energy Policy Act of ‘05, were specifically designed to prolong the use of coal as a feedstock for electricity.
    - Authorization: $937 million over 5 yrs (FY21-25)

$6 billion--the size of the nuclear bailout

The nuclear industry likes to bundle itself with renewable energy technologies, portraying failing nuclear power plants as clean. This doesn’t pass the laugh test. Nuclear power is incredibly toxic at every stage; the mining, milling, and enriching of uranium are all carbon-intensive processes that generate vast amounts of radioactive and toxic wastes. The unsustainable supply and production of nuclear power is compounded by the lack of any plan or capability to safely store the 2,000 tons of irradiated nuclear fuel produced each year. Additionally, nuclear energy is a massive source of environmental injustice, as the vast majority of uranium mines, mills, production facilities, reactors, and waste dumps are located in communities that are disproportionately Indigenous, Black, People of Color, rural, and low-wealth.

Wind, solar, and energy efficiency measures are proven renewable technologies that can be deployed much quicker and more affordably than nuclear power. However, instead of allowing the phase-out of aging and uneconomic reactors, Senator Manchin would authorize spending$6 billion through 2026 to bail out these failing facilities. This would harm consumers by keeping expensive, uncompetitive reactors online and hurt the climate by delaying the deployment of renewables.

Modeled on the previously introduced [American Nuclear Infrastructure Act](), this bailout would create a new economic incentive program managed by the Department of Energy for reactors threatened with closure. In theory, priority for subsidy payments would be given to reactors whose closure would increase air pollution. But the bill is so polluter friendly that no external, third party verification is required to evaluate claims from utilities about emissions increases. The entire program is straight from the nuclear industry playbook: claim financial distress, threaten closure, and use the leverage to demand additional subsidies.

$7 billion--the amount of funding that could be hijacked for dirty hydrogen

One of the newer Big Oil distractions has been the renewed interest in hydrogen. While hydrogen can be used for a variety of industrial and energy purposes, including as a form of energy storage, it is only as clean as the fuel source used to produce it--and 95 percent of hydrogen is produced using fracked gas. Polluters have a vested interest in maintaining this status quo, and producing hydrogen allows them to repackage fossil fuels and other dirty energies as clean. Senator Manchin is happy to oblige, as nearly all of the hydrogen provisions in the Energy Infrastructure Act make no distinctions between hydrogen produced from renewable sources and hydrogen produced from fossil fuels and nuclear. For example, the largest single hydrogen authorization in the bill is $8 billion for a series of regional hubs. Of the four hubs, only one is required to use renewable energy as a feedstock "to the maximum extent practicable," while two others must use fossil fuels and nuclear, respectively. Given that at least two must be sited with preference to regions with major natural gas resources, and the hubs will be directed to "use energy resources that are abundant in that region", there is little question of Senator Manchin's intent that this funding will be used to produce hydrogen from fossil fuels.

- Regional Clean Hydrogen Hubs, two of which must be located in economically distressed communities in the regions of the United States with the greatest natural gas resources.
    - Authorization: $8 billion over five years (FY22-26)
- The Clean Hydrogen Electrolysis Program would fund research, development, demonstration, commercialization, and deployment of hydrogen produced through electrolysis. The eligibility of the high-temperature electrolyzers indicates that fossil or

biomass combustion or nuclear energy could be used to provide thermal energy to help produce hydrogen.

   - Authorization:$1 billion over five years (FY22-26)

$1.9 billion--the size of the giveaway to logging interests

Dirty energy and timber interests are pushing a mind-boggling narrative that cutting down our forests and burning them is somehow part of a climate solution. The logging industry hides behind terms like "fuel reduction" or "restoration", despite the most current and comprehensive science increasingly finding that such logging, deceptively conducted under the guise of forestry management, will in most cases make wildfires burn more intensely, not less. Over 200 top climate scientists and ecologists recently informed Congress that "thinning" and other logging substantially exacerbate climate change, urging Congress to shift away from funding these types of logging. Despite this, Manchin's proposal includes massive new subsidies for increased commercial logging on federal public lands. Further, he directs Forest Service road and trail remediation funding to include considerations for increased timber demands and resource extraction.

Manchin proposes authorizing $1.9 billion for commercial logging on public lands. Much of this spending is through the guise of wildfire or forestry management. However, in the absence of environmental standards, benign-sounding activities such as "restoration" and "byproducts" are used to funnel money towards logging and clear-cutting on public lands. Federal land agencies like the U.S. Forest Service and BLM sell public timber to private logging companies and keep the revenue for their agency budgets, creating a perverse financial incentive to continue justifying these logging programs.

- The Collaborative Forest Landscape Restoration Program has become heavily dominated by logging interests and U.S. Forest Service personnel, and has become little more than a vehicle for destructive commercial logging.
   - Authorization: $100 million over five years (FY22-26)

- Mechanical thinning and timber harvesting subsidizes logging on public lands. The Forest Service defines "small" diameter trees so broadly that industrial logging activities could and would qualify. Moreover, the "to the extent practicable" phrase means that the small-diameter language can simply be ignored by the Forest Service. The broad discretion to define "small" and "ecologically appropriate" will result in logging that undermines the resiliency of our forests and results in wildfires burning more intensely.
   - Authorization: $500 million

- Wildfire and forestry management is often used as a justification for logging, funding post-fire logging on federal public lands with taxpayer money under the guise of "restoration." In absence of environmental standards, industrial logging and clearcutting could be spun as creating "fuelbreaks" or "removing flammable vegetation."
   - Authorization: $500 million for fuelbreaks over five years (FY22-26)
   - Authorization: $200 million for removing vegetation to create biochar over five years (FY22-26)

    - Authorization: $200 million for postfire logging over five years (FY22-26)

- 'Byproducts of restoration projects' is a guise for subsidizing forest biomass and wood pellets produced from private and public lands. The lack of environmental standards means that the biomass and wood pellet industries would merely need to use the phrase "ecosystem restoration" to promote their logging and clearcutting in order to receive the subsidies--regardless of the truth.
    - Authorization: $400 million over five years (FY22-26)

20 percent—the Manchin cut to the AML coal fee

Credit where credit's due, the Manchin bill authorizes $11.3 billion for the Abandoned Mine Land (AML) fund. This is a program to reclaim, or restore, lands scarred by coal mining that continue to pose risks to human health and the environment. Established in 1978, the AML is designed to repair lands wrecked by mining from before the advent of modern environmental law. It covers coal exclusively, and does not fund the immense reclamation needs of either hardrock minerals or uranium.

In theory, $11.3 billion is the largest authorization of the entire Energy Infrastructure bill. Likely, this number is based on the Interior Department's current estimate of the unfunded reclamation needs of existing sites, which stands at $10.7 billion. This far exceeds the AML's dwindling unappropriated balance of $2.3 billion. The problem is that even this fresh injection is likely too small. An analysis from the Ohio River Valley Institute finds the number closer to $20.9 billion, likely rising to $26.9 billion by 2050 as new sites are discovered and existing sites become pricier to reclaim because of climate change.

What makes the Manchin proposal so worrying is that it pairs a bailout of the AML with a sharp cut to the AML's only source of revenue—a fee paid by companies for every ton of coal they extract. The program exacts a different fee for surface, underground, and lignite coal, but the proposal from Manchin would cut all of the existing fees across the board by 20 percent.

The AML fee is slated to expire this September, so renewing and extending it is an urgent matter. But the fee should be raised, not cut, to ensure the long-term viability of the program. Kicking the can down the road is dangerous not just for unreclaimed lands. The United Mine Workers of America is eligible for payments into its health and pension plans from the interest earned on unappropriated AML funds. Although these payments can be back-stopped to a degree by the Treasury Department, the long-term risk of AML insolvency puts added pressure on obligations owed to workers.

Despite the decline of the coal industry, the fee cut is not a negligible gift. For example, the Manchin bill would cut the rate for surface mining from 28 cents to 22.4 cents per ton. According to the Energy Information Administration, the US produced 438.9 million tons of surface coal in 2019. If the Manchin rate had been in effect then, coal companies would have saved a cool $24 million on surface coal fees alone.

$0--the size of the increase in bonding requirements for oil and gas wells on public lands

Orphan wells are one of the many dirty legacies left behind by Big Oil. Millions of oil and gas wells across the U.S. have been abandoned by operators without any effort to clean up the operation or plug the well. These wells emit roughly 281 kilotons of methane annually, contaminate surrounding groundwater, and risk explosion. Remediating these wells is crucial, they are a constant source of dangerous pollution and the clean-up process creates jobs. The Energy Infrastructure Act includes some funds for this cleanup, including $250,000,000 for orphan wells on public lands during the period of fiscal years 2022 through 2031, as well as funds for Tribal Governments. The issue is that the Exxon infrastructure package proposes this funding without any bonding reform. Surety, or well-plugging, bonds are intended to guarantee that drillers plug unused wells before abandoning them. However, current bonding provisions have proven far from sufficient in ensuring polluters, not taxpayers, pay for the cleanup.

Orphan wells are not well documented, so clean-up efforts are slow and costly. Unless we increase bonding rates, taxpayers will be forced again and again in the future to bailout Big Oil's mess. Polluters should be the ones to pay for remediation, which means that bonding reform is needed. We must increase minimum public land oil and gas bonding amounts to $150,0000 on an individual lease and $500,000 in an entire state, as is proposed by bills introduced separately by Senator Bennet, Representative Lowenthal, and Representative Ledger Fernandez. We should also require operators to pay an annual fee for idled wells on public lands. But, this is the Exxon Infrastructure package, so the lack of bonding reform is unsurprising. Big Oil benefits from a status quo that allows polluters to walk away from their mess with zero consequences.

Conclusion

In the ExxonMobil sting, Keith McCoy talked candidly about Big Oil's favorite democrats. No one was surprised to see Senator Manchin on Exxon's list. Mr. McCoy's observation, that Senator Manchin is not shy about staking his claim, is clear throughout his infrastructure bill. The over 70-to-1 dirty to renewables is classic Manchin and classic Big Oil. Legislation like this puts at risk President Biden's promise to put climate at the center of infrastructure.