

Renewable Energy Will Not Benefit from Manchin's Side Deal

- While all large energy projects can face delays, the federal environmental review process has generally not been a source of delays for renewable energy projects.
- Senator Manchin's legislation, which was drafted by the American Petroleum Institute and Mountain Valley Pipeline developers, will hollow-out environmental reviews under the National Environmental Policy Act (NEPA) to the overwhelming benefit of the fossil fuel industry.
- Fossil fuel infrastructure should take longer to approve than clean renewable projects because of the catastrophic harm that can occur. The BP Deepwater Horizon oil rig was exempted from an in-depth environmental review based on false assumptions that a catastrophic spill would not occur. This led to the largest oil spill in U.S. history. Cutting corners for fossil fuel projects will lead to greater environmental damage.

Manchin's Legislation Disproportionately Prioritizes Fossil Fuel Projects

- The legislation would require the President to prioritize 25 projects for the truncated environmental review. Of these 25, the legislation requires 19 fossil fuel or mining projects to be expedited, while 6 expedited projects would focus on energy generation "without the use of fossil fuels."
- Within these 6 projects, Manchin's definition would allow false solutions such as biomass and methane to be prioritized rather than true renewable energy projects. **In fact, Manchin's legislation does not use the word "renewable," "solar" or "wind" at all because Sen. Manchin is extremely hostile to renewable energy. It is possible that this side deal does not benefit a single project that is actually clean and renewable.**

Renewable Energy is Delayed by Other Factors, Not NEPA Reviews

- State and local NIMBY laws can impede renewable energy. For example, the State of Ohio [passed a law](#) in 2021 that allows local governments and counties to block solar or wind energy if such projects would "ruin the character" of a community.
- State and local laws in states such as Florida have made it more difficult, if not impossible, to connect solar energy into the grid, which disincentivizes rooftop and distributed solar energy.
- Outdated requirements by the Federal Energy Regulatory Commission, as well as State and local opposition to transmission lines, are also a major obstacle to connecting renewable energy to the grid.

Well-designed Renewable Energy Projects Are Quickly Approved

- The FAST Act already allows nationally-important renewable energy projects to receive sufficient agency resources to be approved without delays, and without truncating the NEPA process.
- To the extent that any residual NEPA delays exist, the Biden Administration already has implemented a [Permitting Action Plan](#) to facilitate the approval of renewable energy without harming our core environmental laws and maintaining robust public participation.
- For example, the [Gemini Solar](#) project in Nevada was approved in roughly two years, and the NEPA environmental impact statement took only 14 months. The project successfully secured funding this year and it is scheduled for completion in 2023.

- The approval process for the [Vineyard Wind](#) project off the coast of Martha's Vineyard and Nantucket, Massachusetts has taken 3.3 years and all federal environmental permitting was completed in just 1.3 years. The project was [delayed](#) by the Trump administration but has since been approved by the Biden administration and construction started in 2021.

Poor Management or Bad Project Design Can Delay Any Project Including Renewables

- While the [Crimson Solar](#) project in California took nearly 12 years to approve, the NEPA environmental review process was completed in just 2 years. The delays in the project were caused by other obstacles including proposing an experimental solar thermal tower project. Once the project proponent changed the design to a more traditional photovoltaic plant, which covered less land, the project moved forward.
- The [Palen Solar](#) project in California took 12 years to complete because project ownership was transferred three times, the companies involved went through [two bankruptcies](#), and the design of the project was changed from two different concentrating solar thermal plants to a traditional photovoltaic plant. Nevertheless, the NEPA process is blamed for the long approval time even though the actual reason for delays had nothing to do with NEPA.
- Some solar projects can be poorly sited and harmful to disproportionately impacted communities. For example, the [Archer Solar project was never built](#) after it was met with resistance from local residents during the NEPA environmental review process. Given the historical injustices experienced by the residents of Archer, including many who were descendants of slaves and were some of the first Black landowners in the nation, the community did not want an industrial infrastructure project where none of the solar energy, revenues, or benefits generated by the planned project would be returned to the community. Instead of building an industrial solar farm, the residents of Archer instead adopted more rooftop and community solar projects that directly benefited the community.
- A [report](#) by the Treasury Department identified 40 economically significant infrastructure projects and found that it is a lack of consistent public funding that is the most common factor hindering these projects. However, new funding in both the Infrastructure Investment and Jobs Act and the Inflation Reduction Act should easily address this long-standing deficiency. Consistent funding through the appropriation process must also occur to ensure environmental reviews are not delays.

Manchin's Side Deal Will Not Address The Principal Obstacles To Transmission Projects

To secure Senator Manchin's vote for the Infrastructure Reduction Act, Democratic leadership agreed to a side deal that, if passed, will weaken federal environmental reviews under the National Environmental Policy Act (NEPA). Now, seeking to blunt opposition to this side deal, [proponents](#) are falsely claiming that this will hasten the buildout of transmission capacity needed to bring clean energy online.

In fact, while there are a host of major obstacles to transmission development, NEPA reviews are not one of them. And in any event, transmission projects have already been subject to limited NEPA reviews since Congress passed FAST-41 in 2015.

- **There are many sources of delays in approving transmission projects, but NEPA is not a major one.**
 - In many cases, the siting and construction of transmission lines, and sources of bottlenecks, [occur](#) at the state, local, and regional levels. Various aspects of transmission projects—particularly if a new right of way is needed—[require](#) certificates, siting approval and often the exercise of eminent domain by [state](#) Public Utility Commissions and other state permitting authorities. There can be long delays in obtaining these necessary approvals, sometimes leading to [cancellation](#) of proposed projects. Opposition from concerned local residents (NIMBYs) [can](#) also be a significant obstacle. *However, none of these major barriers have anything to do with NEPA.*
 - [Utilities](#) have also thwarted large-scale transmission projects because they are open to competitive bidding, preferring to focus on smaller regional projects they can build without competition. The Federal Energy Regulatory Commission (FERC) is addressing this in a [pending rulemaking](#), but *that has nothing to do with NEPA.*
 - Regional Transmission Organizations (RTOs) also play an important role in regional transmission planning. Both FERC and the Department of Energy are [working](#) to [overcome](#) transmission planning obstacles, *none of which implicate NEPA.*
- **Transmission projects are already eligible for limited NEPA review under FAST-41.**
 - The 2015 FAST Act [limited](#) NEPA review for infrastructure projects, including certain transmission projects and limited the timeframe for judicial review.
 - There is no indication that the FAST Act improved the timeframes for approval and construction of transmission projects. This seriously undermines the claim that further curtailing NEPA review as proposed in the Manchin side deal is relevant to expediting the siting and construction of new transmission projects.

- **Two provisions directly related to transmission development might expedite projects to some extent, but not due to weakening NEPA review.**
 - The side deal amends the Federal Power Act to allow FERC to seek DOE approval for a transmission project as “necessary in the national interest.” After such a designation, FERC can issue a construction permit after making certain findings, but *such a designation or subsequent permit would not be [exempt](#) from NEPA review.*
 - The side deal also limits NEPA reviews for a continuing list of 25 “priority projects,” two of which must always be transmission projects. This could expedite NEPA review for such projects, but *NEPA will still apply, and this will not address the state and local obstacles that may delay these projects.*