



**HEARING BEFORE THE UNITED STATES SENATE COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS**

April 24, 2023

**Written Testimony of Martin J. Durbin
Senior Vice President, Policy; President, Global Energy Institute
U.S. Chamber of Commerce**

Chairman Carper, Ranking Member Capito, and members of the Committee. I am Marty Durbin, Senior Vice President of Policy, and President of the Global Energy Institute at the U.S. Chamber of Commerce. Thank you for the opportunity to testify at today's hearing.

The Chamber is the world's largest business organization representing companies of all sizes across every sector of the economy. Our members range from the small businesses and local chambers of commerce that line the Main Streets of America to leading trade associations and Fortune 500 companies, to growing startups in emerging and fast-growing industries that are shaping our future. Each one of our members share one thing: They count on the U.S. Chamber to be their voice in Washington, across the country, and around the world. For more than 100 years, we have advocated for pro-business policies that help businesses create jobs and grow our economy.

I am excited to be here today, and optimistic about the opportunity to make meaningful, durable improvements to the federal permitting process that are crucial to so many national priorities.

The United States is a nation of builders. From the building of the transcontinental railroad during the Civil War, to the Interstate Highway System after World War II; from rural communities and townships to modern skyscrapers. More recently, the internet and millions of miles of wires, transmission lines, and pipelines are powering the world's leading economy.

Data show, however, that our permitting process is broken, creating unnecessary obstacles to building the infrastructure, and the economy, of the future. We can and must conduct environmental reviews and provide for meaningful community input, but there is no reason we cannot accelerate the process. It shouldn't take longer to get a decision about a permit than it does to actually construct a project.

According to government data, it takes on average more than four years for a project to obtain a federal permit; for roads and bridges, an average of 7.4 years and for public transit, 5.3 years. And the permitting process for electric transmission lines can take a decade or more. America's environmental statutes provide critical protections and have contributed to better stewardship over the decades. But over time their interpretation and implementation have added complexity in ways that empower project opponents – of all types – to delay action through the regulatory process and the courts.

We need Congress to act to ensure America's global competitiveness, strengthen our economic and energy security, and meet the challenge of climate change. It is clear there is overwhelming bipartisan support to find a solution. To build on that momentum and spur quick action in Congress, the Chamber and nearly 350 partners from across the economy and nearly every corner of the nation launched the [Permit America to Build](#) campaign.

From telecom to ports, airlines to automakers, energy, construction, trucking, manufacturing, real estate, labor, environmental groups, and more, the sheer breadth of sectors calling on Congress to take action illustrates the magnitude of the problem, and the importance of a bipartisan solution. With such a broad group of industries, labor unions, and others, we won't agree on every issue, but we are committed to working with Congress to enact necessary reforms this year. As a starting point, we agree on the following principles:

- **Predictability** – Project developers and financiers must have an appropriate level of certainty regarding the scope and timeline for project reviews, including any related judicial review.
- **Efficiency** – Interagency coordination must be improved to optimize public and private resources while driving better environmental and community outcomes.
- **Transparency** – Project sponsors and the public must have visibility into the project permitting milestones and schedule through an easily accessible public means.
- **Stakeholder Input** – All relevant stakeholders must be adequately informed and have the opportunity to provide input within a reasonable and consistent timeframe.

HISTORIC OPPORTUNITY

Over the last two years, Congress enacted the most significant investments in infrastructure in a generation. Combined, the Infrastructure Investment and Jobs Act, the CHIPS and Science Act, and the Inflation Reduction Act could spur public and private investments of nearly \$2 trillion to build the infrastructure that will keep the United States economically competitive into the future. Looking at the IRA alone, Princeton University's REPEAT project analysis found that failing to accelerate transmission expansion beyond the recent historical pace (~1%/year) risk losing 800 million tons per year in U.S. greenhouse gas emissions reductions by 2030, relative to estimated reductions in an unconstrained IRA case.¹ In other

¹ https://repeatproject.org/docs/REPEAT_IRA_Transmission_2022-09-22.pdf

words, the potential to reduce emissions from IRA is directly tied to our ability to permit transmission lines faster.

A SECTOR BY SECTOR LOOK AT PERMITTING IMPACTS

Energy

The clean energy transition that is a central part of the global climate strategy cannot be implemented when it takes years to build projects like offshore wind, solar farms, and transmission lines. Not only does that delay emissions reductions, it also places our country at a competitive disadvantage. In fact, in one analysis that examined China, India, the European Union and the United States, U.S. permitting times drive deployment delays up to six years compared to other countries.² According to the American Clean Power Association (ACP) over the last 8 months, more than \$150 billion in domestic utility scale clean energy investments have been announced—as much as the last five years combined. However, ACP notes that: “...to realize this clean energy future and ensure the full potential of these projects, ACP urges the Administration and Congress to continue improving trade policies, supporting next-generation technologies, finalizing effective tax implementation, and working to enact commonsense permitting reform.”³

To reach net-zero emissions by 2050, over 1 million miles of transmission lines would also have to be built.⁴ In addition, the National Academies of Science estimates that more than 65,000 miles of new CO₂ pipelines are needed to take advantage of carbon capture and sequestration investments in the Inflation Reduction Act, all of which will need permits. Does anyone believe that’s possible with our current permitting system?

Of course, renewable energy projects aren’t the only energy projects facing delays. Natural gas is the backbone of a clean energy economy, providing standby support for intermittent generation in addition to cleaner baseload generation. But the inability to predictably and reliably site interstate pipelines is preventing affordable and reliable supplies of domestic natural gas from being utilized. Those permitting roadblocks are also hampering investment in pipelines to transport CO₂ and hydrogen —necessary infrastructure to decarbonize the industrial sector.

Now more than ever, we can help our allies by providing affordable, clean natural gas to help meet their energy security needs. We’ve seen what happens when countries like Russia weaponize energy supplies. Europe, Japan, and others are depending on the United States to provide oil and natural gas as they rapidly seek alternatives to Russian energy

2

file:///C:/Users/mletourneau/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/ZNASMOIU/Crosstech-Cleantech-Policy-Impact-Assessment.pdf

³ <https://cleanpower.org/investing-in-america/>

⁴ <https://www.nationalacademies.org/our-work/accelerating-decarbonization-in-the-united-states-technology-policy-and-societal-dimensions>

imports. However, despite this vital global security interest, America's inability to permit energy infrastructure has exacerbated risks and impeded project financing, particularly with respect to natural gas exports. While some progress has occurred since Russia's invasion, a number of permits to export liquified natural gas (LNG) await uncertain action by the federal bureaucracy⁵. Importantly, these projects can help to reduce emissions by displacing higher intensity coal and natural gas sources throughout the world.⁶

In addition, despite proximity to the Marcellus Formation, the second largest natural gas basin in the world, the Northeastern United States has some of the highest energy prices in the nation and faces capacity constraints, especially during winter months, forcing it to rely on imported LNG and higher-emitting fuel oil. This is because project opponents have used the permitting process to make it virtually impossible to site an interstate pipeline that will safely deliver energy resources to areas that need them. Some projects, such as the Atlantic Coast Pipeline and the Penn East Pipeline, have been completely cancelled, while others, such as the Mountain Valley Pipeline, have faced years of delays.

Mining

Demand for critical minerals is also at an all-time high. The Biden Administration is heavily invested in the rapid acceleration of electric vehicles and charging infrastructure which depend on critical minerals and materials. Critical minerals are used in everything from cell phone batteries to wind turbines. Unfortunately, some 80 percent of these materials are produced, refined, and processed by China, raising serious questions about the stability and dependability of the supply chain.

Recent attempts by other countries to catch up with China have met mixed results. Canada and Australia, however, seem to understand the problem, and a mining permit in those nations averages about 2 years. But in the United States, those same permits—if possible to secure at all—can take 7-10 years, placing us at a massive disadvantage⁷. Moreover, it is not uncommon for mining projects to take much longer, like the Mount Hope project in Nevada, which took 17 years to get a permit.

⁵ [API-SOAE23-Printed-Report.pdf](#)

⁶ A 2019 Department of Energy analysis found that natural gas pipelined from Russia to Europe's electricity sector has 41 percent higher life cycle GHG emissions than American LNG shipped to Europe from the Gulf of Mexico. President Biden and European Commission President von der Leyen have committed to ensure an additional 50 bcm of USLNG is delivered to Europe through at least 2030. We estimate that meeting that 50 bcm goal would achieve 73 million metric tons of CO2 emissions, simply by replacing Russian gas with U.S. gas. As with current coal-to-gas estimates, that figure is likely an underestimate because we know from more recent datasets (such as the World Bank) that U.S. energy production continues to get cleaner while Russia's environmental footprint has worsened. This emissions advantage is nearly certain to grow in the years ahead, thanks to IRA incentives, EPA regulations, and commitments by U.S. producers and exporters to address emissions throughout the LNG supply chain.

⁷ https://nma.org/wp-content/uploads/2021/05/Infographic_SNL_minerals_permitting_5.7_updated.pdf

Semiconductors

The CHIPS and Science Act invested more than \$50 billion to strengthen America's semiconductor industry to help ensure national security and our global competitiveness. The Department of Commerce is currently in the process of soliciting applications for the CHIPS program. However, projects funded by the CHIPS Act are subject to the National Environmental Policy Act (NEPA), which is new for this industry. It has been widely reported that NEPA requirements are expected to present significant challenges for many projects funded by the CHIPS Act, which is compounded by the intensive process of building a new semiconductor facility. A primary objective of the CHIPS Act is to reduce the cost differential between investment in the United States compared to other jurisdictions, so inflexible NEPA requirements could counteract those goals. Congress and the Department of Commerce both have important roles to play to speed up the NEPA review process for CHIPS Act programs.

Broadband

Closing the digital divide is an important priority of the Chamber to drive e-commerce, improve access to critical services, and sustain small businesses. While the federal government has invested tens of billions in broadband deployment, uncertainty and delays in broadband permitting processes at the federal, state, and local levels increase the cost of deployment and make it more challenging to close the digital divide. More efficient permitting processes are needed for timely upgrades to America's communications infrastructure. The primary barriers to broadband deployment include inconsistent and impaired access to federally managed lands, lengthy and burdensome NEPA and National Historical Preservation Act reviews, and certain state and local permitting rules such as excessive fees, onerous liability provisions, and prolonged approval timelines.

Transportation Infrastructure

The Infrastructure Investment and Jobs Act provides an unprecedented opportunity to modernize our Nation's transportation infrastructure through \$1.2 trillion in federal investments over 5 years. However, states and other recipients of these dollars are struggling to use them to maximum effect since the lengthy and inefficient permitting process adds years and enormous uncertainty to all but the most straightforward maintenance projects. The lack of predictability, efficiency, and transparency to the federal permitting process has the very real impact of encouraging federal dollars to go towards strict maintenance projects and discouraging contractors from bidding for federally-funded transportation projects. In fact, record inflation and uncertainty over when they can actually put shovels in the ground means businesses may actually be *losing* money on projects. The longer it takes for shovels to hit the dirt, the less impactful IJIA will be and the less we'll be able to build.

Moving Goods, People and Services

One of our challenges is our ability to address our supply chain and meet the demands of the world economy by growing our infrastructure. Yet it takes 7.7 years on average for an airport to receive a permit. Almost \$2 trillion in goods are shipped in and out of the U.S. dependent on our waterways. To keep the flow moving, we need to reduce port congestion, but it takes almost 8 years just to get permits for port navigation improvements.

During the infrastructure debate, we heard many stories about our crumbling roads and bridges. Having President Biden and Senate Minority Leader McConnell attend the groundbreaking for badly needed improvements to the Brent Spence Bridge between Kentucky and Ohio was a powerful moment that symbolized the opportunity we now have. Yet road and bridge projects face some of the largest delays. Highway projects take on average over 7 years to permit. Recent history is full of examples of projects with absurdly long permitting timelines. The permit for New York's Bayonne Bridge project was 5,000 pages long and cost \$2 million to produce. The project took a decade from conception to completion.⁸ The US70 Havelock Bypass in North Carolina took a staggering 27 years to permit.

Public transit projects are not immune from these kinds of delays either, as many of us locally here in the Washington area that have been following the Purple Line know.

Water Resource Management

\$13 billion in water infrastructure has been allocated through the Infrastructure Investment and Jobs Act and other recent laws to increase drought resilience and expand access to clean water for families, especially in the American west. The benefits of these investments will be delayed because water infrastructure projects take 6 years on average to receive a permit.

Conclusion

There are many other industries and numerous areas of our economy impacted by permitting delays. But the good news is that there is increasing bipartisan agreement that something must be done.

We recognize that forging consensus on the details may not be easy. But we cannot let the perfect be the enemy of the good. After decades of seeing the process get longer, more complex, and less transparent, we must take whatever steps we can now to create a modern, agile, and efficient permitting process. Every day that goes by imposes an opportunity cost on all of us.

⁸ <https://bipartisanpolicy.org/blog/americas-national-climate-strategy-starts-with-nepa/>

The Chamber is ready and willing to work with each and every member of the House and Senate who are interested in helping to unleash both recent public investments and the power of private sector capital. Our members view this issue as one of the most important facing our country, and if we do not solve it, we won't be able to grow our economy and rise to the challenges that we face.

Thank you for the opportunity to testify, and I look forward to your questions.