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Committee on Environment
and Public Works

Washington, D.C.

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HEARING ON OPPORTUNITIES TO IMPROVE PROJECT REVIEWS FOR A
CLEANER AND STRONGER ECONOMY

Wednesday, May 17, 2023

United States Senate

Committee on Environment and Public Works

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The committee met, pursuant to notice, at 10:17 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Merkley, Markey, Kelly, Cramer, Boozman, Sullivan, Ricketts .

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Good morning, everyone. I am happy to call this hearing to order.

We are here today to revisit opportunities for improving our environmental review and our permitting processes, as you know, in ways that support the deployment of clean energy projects and good-paying jobs across our Country. We need both.

Today is our committee's second hearing in less than two months in an effort to chart a path forward on permitting reform legislation and finish the job we have already begun. What do I mean by finishing the job? I mean build on the work we started last Congress when we passed, thanks to the leadership of our President and the members of this committee, literally in this room, a once-in-a-generation investment in our Nation's infrastructure and the largest investment ever to address the threat of climate change.

In addition to helping us tackle the climate crisis and reduce harmful pollution, these historic investments are already creating literally hundreds of thousands of good-paying jobs here at home while helping our Nation become even more competitive globally. Still, in order to make these clean energy investments a reality today, we first need to take a serious look at our current permitting processes.

During our first permitting hearing just three weeks ago, we learned that our Nation currently has two terawatts of clean energy power sitting on the sidelines, waiting to be connected to our electric grid. I want to say that again: our Nation currently has two terawatts of clean energy power literally sitting on the sidelines, waiting to be connected to our electric grid.

We also learned at the first hearing that many communities still do not have a seat at the table, and they need to be heard during the permitting process.

I believe we can do better, and we must do better. Fortunately, President Biden agrees, and so do many of our colleagues.

As I said during that first hearing, I believe that a successful permitting reform proposal must accomplish at least three objectives. First, any serious proposal must reduce greenhouse gas emissions while upholding our Nation's bedrock environmental statutes. That includes addressing transmission barriers that make it harder for renewables to connect to the grid.

Second, that proposal must support early and meaningful community engagement. Third, the legislation must provide businesses with the certainty and predictability that they need to make informed long-term decisions.

During that hearing, we were fortunate to hear from a diverse panel of stakeholders representing industry on the one hand and environmental groups on the other. While our witnesses did not see eye to eye on every single thing, all five of them did agree about the importance of engaging with communities early on and protecting our environment as we work to improve permitting efficiency. And, if I'm not mistaken, I believe our Ranking Member also, and many of our colleagues, also embraced this theme after hearing our witnesses' testimony.

In fact, most if not all of the stakeholders we have met with throughout the past several months have acknowledged that it is not necessary to use a sledgehammer to crack a nut. In other words, we can achieve efficiencies without gutting any existing laws, and that is what we need to do.

Unfortunately, a number of recent proposals, mostly from our friends over in the House of Representatives, aim to streamline the permitting process using very blunt tools and setting up what I believe is a false choice. If enacted, they may well strip away bedrock environmental protections under laws, such as the National Environmental Policy Act, or NEPA. Some of them would curtail, or in certain cases, outright eliminate the ability to seek judicial review of agency decisions.

It is my heartfelt belief that we can provide businesses

and communities with greater certainty by using a more targeted approach. I hope that is exactly what we will do.

As Chair Mallory will point out in her testimony today, NEPA helps inform roughly 100,000 Federal agency actions and decisions each year. Around 200 projects a year require an environmental impact statement. That is the most comprehensive type of environmental analysis. That said, more than 95 percent of projects needing approval receive that approval under the most expedited form of environmental review, known as a categorical exclusion.

Even with this success, there are opportunities for improvement. As I oftentimes say, in everything that I do, I know I can do better. I think that is probably true of all of us. The same is true in this instance. We can improve efficiency, we can improve certainty, and we can improve predictability in the permitting process while also ensuring that communities have an opportunity to make their voices heard.

Earlier this month, the Biden Administration released new priorities to accelerate Federal permitting and improve environmental reviews across a broad range of infrastructure projects. I think there are a number of good ideas from the Biden Administration's proposal that could be, maybe should be a part of permitting reform legislation. Among them is expanding the use of programmatic environmental reviews to accelerate

permitting within identified regions.

Some agencies are already beginning to do this, as you may know. For example, off the coast of New York State, the use of programmatic economic impact statements is helping to create a record of the environmental impacts of offshore wind development. Doing so can result in more timely project-level reviews.

I also believe that we should expand opportunities for developing clean energy facilities on brownfields, an idea that I believe Senator Capito supports, and others on our committee. In addition, we should improve the use of digital tools and data sharing between agencies and facilitate greater community engagement, all ideas also supported by the Biden Administration and by a number, maybe most of our colleagues.

Still, as we work on this hugely consequential matter, it is important to hear from all stakeholders. That is why I plan to soon release a permitting proposal as a discussion draft. That is what we are calling it, a discussion draft. When I release it, I encourage our colleagues, I welcome our colleagues, along with members of the public, to provide us with substantive feedback.

We also have much to learn about how these proposals would interface with the work currently being done by the Administration to promote timely, effective reviews. And that

brings me to why we are holding today's hearing. This is an important hearing. We have a lot of hearings in this room. None of them are unimportant; this one is really important. We are here to gain the perspectives of these witnesses. We look forward to hearing from each of you and we thank you for joining us today.

With that, let me turn to our Ranking Member, Senator Capito, for her opening statement. Senator Capito?

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you, Chairman Carper, and thank the three of you for being here today and for what you do every day for this Country. We appreciate that.

We are holding this hearing today to discuss a priority for both of us and many of us: modernizing and improving America's permitting process. Americans are dealing now with rampant inflation, breakdowns in supply chains, and aging, inadequate infrastructure. They are struggling with higher costs and less reliable infrastructure to heat and cool their homes, keep the lights on, get to school and to work.

The bipartisan Infrastructure Investment and Jobs Act, which was born out of this Committee, was designed to address many of these challenges, by funding the buildout of more road, bridge, drinking water, and wastewater projects, and making the United States less reliant on other countries to meet its basic needs.

A year-and-a-half later, we are now seeing that implementation of that legislation, as well as that of the CHIPS and Science Act, and even legislation that I did not support, the Inflation Act, all running into the same challenges that have dogged infrastructure development for years. It comes as no surprise to those of us who have been in and around this

space for a while.

That is why I have consistently called for statutory reforms to the federal environmental review and permitting processes, including most recently in the RESTART Act that I introduced two weeks ago joined by most of my Republican colleagues on this committee. The processes have become a bureaucratic, confusing maze.

Even if a project sponsor successfully makes it through, or even if they make it through three different times under Administrations of both parties, as with the Mountain Valley Pipeline in my State, they often hit more roadblocks, litigation. Activists opposed to building any new projects are standing at the ready with a lawsuit to add further delays and costs in the hope of killing a project or inflicting so much pain that a project sponsor will give up, eliminating jobs, tax revenues, and economic resilience in the process.

As even John Podesta, the President's senior advisor, acknowledged at an event last week, "We got so good at stopping projects that we forgot how to build things in America. It has been this way for a while."

The red tape, regulatory hurdles, and endless court battles faced by businesses slow and sometimes altogether stop critical projects. Ultimately, it is the American people who pay. We sometimes hear defenders of the broken system claim that "most"

projects make it through the environmental review, permitting, and litigation just fine, but that torturing of the data sort of misses the point. The projects that are getting held up longest, and Martha Williams mentioned this yesterday in her testimony, the ones held up longest are those that are the most transformative and provide the most widespread benefits.

These are the big-ticket projects, the ones that would provide affordable energy to a whole region of the Country, create new construction jobs and permanent positions in manufacturing, or connect rural communities with new roads. Those aren't examples pulled out of thin air.

The Mountain Valley Pipeline, the Nucor steel mill, and Corridor H, are examples of each type of project being held up by bureaucracy or litigation, and those are just pulled from my home State.

I want to thank all of you again for coming here today, I look forward to hearing your ideas. However, I am concerned that your agencies are at best beautifying the existing processes with nice-sounding policy pronouncements that really do nothing, or are actively making the situation worse with more regulation and delay, disguised as guidance to avoid an actual rulemaking process.

Despite its rhetoric and vested interest in seeing those investments succeed, I have not seen the Administration do

anything to actually address the challenges that I have outlined. More than a year ago, your three agencies announced a Permitting Action Plan. It then took your agencies 10 months to release guidance, in the form of a 13-page memo, to begin to implement that plan. It took 10 months to come up with a plan for the plan.

Within a month after that memo was released, Federal agencies were supposed to provide you with their own Action Plans to implement that guidance by April the 5th. Ms. Mallory, we talked about this on the phone the other day. I spoke with you about these documents. And you indicated that the Administration does not intend to make those plans publicly available.

I think it's important for us to hear what agencies have proposed to CEQ, OMB, and FPISC to improve the permitting process as we continue our legislative efforts. We have tried for years in prior infrastructure laws to solve these problems with increased coordination and aspirational timelines, but as we sit here today the problems persist and those solutions have not worked.

That is why we need specific legislation. We cannot waste another year as delays and high inflation all reduce the impact of these investments. To truly modernize our environmental review and permitting processes, we must actually amend the

underlying statutes like NEPA, the Clean Water Act, and the Endangered Species Act.

We need enforceable deadlines on environmental reviews, not goals or soft aspirational schedules that can be changed on a whim by agencies, but we need something that requires constant oversight. Most importantly, we need to modernize these processes for all types of projects.

Pitting renewable projects against fossil, pipelines against transmission, even different transportation projects against each other, will not strengthen our economy nor benefit our environment, but only lead to more political bickering in Congress and among industries jockeying to be favored in the process.

From onshoring new manufacturing and domestic critical mineral projects to roads, bridges, gas pipelines, transmission lines, our permitting problems affect all sectors of the economy, and therefore our international competitiveness and national security. Also, we need judicial reform to end the vicious cycle of projects being held in limbo by activists.

We need lasting solutions that won't shift between Administrations. To do that, we must have a transparent committee process, which we have embarked on, and compromise on bipartisan legislation, which we have done in the past and can do in the future.

Now, I know that many issues in Congress have become increasingly partisan in recent years, but the need for environmental review and permitting modernization should not be. Both sides are watching their priorities get hung up in the process purgatory.

This is an issue that should be approached with common sense and a bipartisan spirit. It is time for us to work together to find common ground and implement meaningful reforms to bring these processes up to date to address those challenges that we face today. By working together, we can find solutions that benefit both our economy and our environment, while still ensuring that projects are held to high standards of safety and environmental protection.

I look forward to hearing from our agency partners and my colleagues today on how we can achieve this together.

Thank you, Mr. Chairman.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you. Senator Capito and I were both born in West Virginia. I was born in Beckley, and still have family there, as she knows. She has had a remarkable career, as has her family, including her dad, including one of her sons, who is running for governor.

One of the things that we have worked on together in the last couple of years is the Bipartisan Infrastructure Bill, maybe the most transformative infrastructure bill in the history of our Country, at least since the building of the interstate highway. Coming to agreement on the Bipartisan Infrastructure was not easy. Coming to agreement on the Water Resources Development Act was not easy. Coming to agreement on transformative recycling legislation was not easy.

But we found the middle and found common cause and reported out legislation and we have built on that since then. My dad used to say to me all kinds of things, Senator Capito has heard most of them. One of those is, the hardest things to do are sometimes the things most worth doing. This is a hard thing to do. But it is really something worth doing. I am delighted that the three of you are here today to help us find our way, so that we can do the work for our Country that needs to be done.

I don't have a detailed background to introduce you with, I am just going to make this very brief and turn it over to each of you. First, we are going to hear from Brenda Mallory. Ms.

Mallory has been here with us before. She chairs the Council on Environmental Quality. We are pleased to have her here back before us. Thank you for your work and your leadership there.

Next, we are going to hear from Jason Miller, who I think changed his schedule here in the last week or so in order to be able to join us. He is the Deputy Director for Management at the Office of Management and Budget. Jason, welcome. We are glad to see you here.

Last but not least, Christine Harada, Executive Director of the Federal Permitting Improvement Steering Council.

We will now begin with listening to our witnesses' testimony. Chair Malory, will you start off, then we will pass it to Jason and then to Ms. Harada. Please proceed.

STATEMENT OF THE HONORABLE BRENDA MALLORY, CHAIR, COUNCIL ON ENVIRONMENTAL QUALITY

Ms. Mallory. Thank you so much, Senator Carper. It is a privilege to be here today.

Good morning, everyone. Chairman Carper, Ranking Member Capito, distinguished members of the committee, it is an honor to be with you today. Thank you for the opportunity to discuss the improvements the President and the Administration have made to our Nation's permitting process.

A little over a year ago, I testified before this committee on the Biden-Harris Administration's progress to protect and improve the health of the environment in communities across America. We have come a long way in a year, thanks in large part to the historic investments in the Bipartisan Infrastructure Law, the Inflation Reduction Act, and the CHIPS and Science Act.

Your work in moving these laws is helping this Administration rebuild American manufacturing, increase American competitiveness, create millions of long-lasting, good-paying jobs, and tackle huge challenges including climate change.

At CEQ, and across the Administration, we are laser-focused on delivering the benefits of these laws at the scale and pace needed to combat the climate crisis while securing a clean and safe environment for future generations. Central to that vision

is an environmental review process that is working as efficiently as possible.

Since its bipartisan passage in 1969, the National Environmental Policy Act has played the crucial role of producing better and more coordinated government decisions that have prevented damaging and costly environmental and economic outcomes. The environmental improvements to the Nation's air and water quality and cleanup of contaminated lands have been achieved with the help of the National Environmental Policy Act review process.

Yet we know that environmental reviews and permitting processes can take too long, and delays can come at a steep cost to communities, the economy and the environment. With your help, our Administration is taking major steps to address the challenge and reform the permitting process to secure faster and better decisions that benefit the American people.

The Bipartisan Infrastructure Law and Inflation Reduction Act provide more than \$1 billion to make sure that agencies have the environmental review and permitting experts and tools they need. The Administration is also proud to have worked with Congress to successfully reauthorize FAST-41, and the Permitting Improvement Steering Council, which is critically important to improving coordination and accountability for high priority projects.

Last year, the President released the Permitting Action Plan, which set forth a strategy for ensuring that Federal environmental reviews and permitting processes are effective, efficient and transparent, guided by the best science to promote positive environmental and community outcomes, and shaped by early and meaningful public engagement without unnecessary delay.

Just last week, we announced an ambitious new action to supercharge efforts to build transmission at the scale needed to advance energy security and meet the President's clean energy goals. Due to this Administration's progress, we are completing environmental reviews faster than the previous Administration did. But there is more progress to be made.

CEQ will continue to advance efforts to improve Federal agency decision making and the environmental review and permitting process, so that we deliver on the National Environmental Policy Act's goal to harmonize economic growth and environmental sustainability.

CEQ will also propose a rule that will reform and update the regulations implementing the National Environmental Policy Act to ensure fair and full public involvement and promote better decision making. We are planning a broad public engagement process to ensure that the regulations will achieve better outcomes for our communities and our environment.

As we implement these measures, we will continue to evaluate permitting reform proposals to assess their potential to improve the speed and quality of processes for big, transformative projects. CEQ is hard at work delivering on the President's commitment to protect our health, our environment, and our communities.

The investments that you, Congress, have made will deliver the benefits of a cleaner environment to all Americans for generations to come. We will continue to work with you to strengthen the supply chains, lower costs for families, grow our clean energy economy, support good-paying jobs, and deliver much-needed infrastructure while promoting early and meaningful public engagement and ultimately positive environmental and community outcomes.

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

[The prepared statement of Ms. Mallory follows:]

Senator Carper. Thank you very much, Chair Mallory. Good to see you, and good to hear from you today.

Mr. Miller, delighted that you could join us. Thanks so much for making the effort.

STATEMENT OF THE HONORABLE JASON MILLER, DEPUTY DIRECTOR FOR
MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Mr. Miller. Thank you. Thank you, Chairman Carper, Ranking Member Capito, distinguished members of the committee. Thank you for the opportunity to speak with you on this important topic today and thank you for your continued bipartisan leadership on improving the Federal permitting and environmental review process.

Thanks to the passage of the Bipartisan Infrastructure Law, the Inflation Reduction Act, and the CHIPS and Science Act, the United States is making a once-in-a-generation investment into our infrastructure and competitiveness that will create good-paying jobs, grow our economy, invest in our communities, and combat climate change.

But to take full advantage of these historic investments and ensure the timely and sound delivery of truly transformative projects, we need to ensure the Federal environmental review and permitting process is effective, efficient, timely and transparent, guided by the best available science, and shaped by early and meaningful public and community engagement.

The President and his Administration reject the view that there must be an inherent tradeoff between permitting efficiency and timelessness on the one hand and permitting effectiveness and ensuring the best outcomes for the community and the environment

on the other. We must and we will do both, resulting in better projects, built faster, safer and cleaner.

Make no mistake: the Federal review and permitting process can and must be further improved. But many common misconceptions about this process persist, including that it is the sole reason for delay. In too many cases, it still is a reason for delay.

Ninety-five percent of actions requiring Federal review under the National Environmental Policy Act are approved under a categorical exclusion, the most expedited form of review. These projects tend to move quickly and expeditiously. One opportunity is to expand the use of categorical exclusions.

Less than 1 percent of actions require an environmental impact statement, the most extensive type of environmental analysis. Yes, these tend to be the largest, most complex, and most transformative projects.

While misconceptions persist, again, make no mistake, the Federal permitting and environmental review process takes too long and must be improved. The Federal Government, though, has made real progress in reforming the permitting process through both legislative reforms and administrative actions. The actions of the Biden-Harris Administration build on important steps taken under the Obama Administration and the Trump Administration.

In addition, we are leveraging new authorities and historic investments provided by BIL, IRA, and CHIPS to accelerate the permitting and review process. In May 2022, as my colleague noted, as released a permitting action plan to accelerate smart permitting through cross-agency coordination, establish clear timeline goals, track key project information to hold agencies accountable, engage early and meaningfully with States, tribal nations, territories and local communities, improve agency responsiveness, technical assistance and support, and use agency resources and environmental reviews to improve impacts of those projects.

In parallel, the Administration is deploying sector-specific teams to facilitate coordination or siting, permitting, supply chain and related issues, ensuring all agencies have information systems, performance measures and adequate capacity in place to create a more efficient and effective review process, and leveraging the Permitting Council to serve as a Federal center for permitting excellence.

We have seen the Administration's commitment to action translate into real results. Our overall timelines on the most complex projects, those with an EIS, has continued to improve relative to the prior Administration. We have permitted more than 130 wind, solar, and geothermal projects with a combined capacity of 14 gigawatts of power, which has the ability to

serve approximately 4.2 million homes with 70 more projects under review. We have approved the Nation's first few large offshore wind projects which are both now under construction and on track to complete reviews of another 15 additional project plans in the next several years.

Again, while progress has been made, more needs to be done. The Administration fully supports bipartisan efforts to further reform permitting and last week outlined priorities for inclusion in a bipartisan reform package, including accelerating deployment of critical electric transmission, deploying hydrogen and carbon dioxide infrastructure, improving permitting efficiency and predictability, enhancing data collection needed for effective permitting, and incentivizing State and local permitting reform.

We look forward to continuing to work with Congress to implement reforms that maximize timeliness and efficiency, are guided by the best available science, and shaped by early and meaningful public engagement.

Thank you again for the opportunity to testify today. I look forward to our continued partnership and welcome any questions you have.

[The prepared statement of Mr. Miller follows:]

Senator Carper. Thanks so much. Thanks for that statement.

We will now turn to Ms. Harada. Thanks for joining us.

STATEMENT OF CHRISTINE HARADA, EXECUTIVE DIRECTOR, FEDERAL
PERMITTING IMPROVEMENT STEERING COUNCIL

Ms. Harada. Thank you so much, Chairman Carper and Ranking Member Capito and the distinguished members of this committee, for the opportunity to testify today. In particular, I would like to take the opportunity to once again express my gratitude to Chairman Carper and Ranking Member Capito, for although the Committee on Homeland Security and Governmental Affairs holds jurisdiction over the Permitting Council, it was your interest, your leadership, and your commitment that enabled the passage of the provisions that ensure this Nation will permanently benefit from the accountability, certainty, and transparency that FAST-41 brings to the Federal permitting process.

With the passage of the Infrastructure Law, the Inflation Reduction Act, and the CHIPS and Science Act, the United States is making generational investments in our infrastructure and competitiveness. President Biden has been and continues to be very clear on his principles for building our Nation's infrastructure and securing America's future, that we must address our climate goals, we must engage communities, and we must provide certainty and predictability for developers.

I come to this role with extensive experience in the private sector as an investor, an advisor, a renewable energy developer, and an engineer. As Executive Director, my goal is

to make the United States the most attractive market for infrastructure investment. This means increased consistency in project delivery, reduced litigation risks, clear regulatory requirements, enhanced predictability, accountability and certainty in the permitting processes.

Together with the Permitting Council members, we work to deliver infrastructure projects that are economically and environmentally sustainable and achieve consensus and benefit the impacted communities and tribal nations.

Under President Biden's leadership, the Permitting Council has focused relentlessly on four vectors: to enhance coordination amongst agencies, enhance data sharing, both among agencies and also with project developers, to provide more transparency and provide funding to support those efforts.

Notably, FAST-41 does not elevate speed over the deliberation that is needed to deliver excellent environmental, economic and community outcomes. We have achieved a number of successes with this model. Since our inception, the Permitting Council has successfully permitted 31 projects, reflecting an estimated direct capital investment value of over \$160 billion.

Our current project portfolio is worth approximately \$100 billion, and in the past year we have successfully permitted four major projects worth approximately \$40 billion. They include the Ten West Link Transmission Line in Arizona, South

Fork Wind project off the coast of New York, the Mid-Barataria Sediment Diversion project in Louisiana, and the Alaska LNG pipeline and terminal.

Since Congress has acted to make the Permitting Council permanent, we see renewed and increased interest in FAST-41 project coverage, particularly in the renewable energy, electricity transmission, carbon capture, critical minerals and broadband sectors. Recently, we have added two tribal broadband projects in New Mexico and Alaska, and a critical minerals project in Arizona.

To ensure the timely and sound delivery of much-needed upgrades to America's infrastructure, last year the Biden-Harris Administration, as my colleagues noted, published the Permitting Action Plan to strengthen and accelerate Federal permitting and environmental reviews. This plan is being addressed and deployed by an all-of-government effort at the senior-most levels. Cabinet officials are meeting on an almost weekly basis to work through permitting in a very hands-on manner. We at the Permitting Council provide support to further drive creative solutions and to break down barriers.

More than ever, our efforts to provide that predictability and certainty into the Federal permitting process is vital. Our work directly impacts the United States' transition to a clean energy economy while providing good-paying domestic jobs and

more equitable environmental and social outcomes. President Biden has been very clear in his expectations of us, and with the investments that Congress has appropriated to the Permitting Council, we are able to ensure strong agency coordination and community engagement up front to get those projects permitted, concrete in the ground, steel in the ground, boots on the ground, without compromising on public engagement, analytical rigor, or environmental protections.

I very much look forward to continuing to partner with this committee and Congress to pass thoughtful permitting reform. I thank you very much for the opportunity to testify today on this important matter. I look forward to your questions.

[The prepared statement of Ms. Harada follows:]

Senator Carper. Ms. Harada, thank you. We look forward to your answers to our questions. Thank you for an excellent statement, and to all of you, thank you for excellent statements.

I am going to kick it off with a question, then turn it over to our Ranking Member, Senator Capito.

First question would be for Chair Mallory. Would you address for us, please, the importance of early engagement, something we heard a lot about at our first hearing, and how legislation could help support early engagement?

Ms. Mallory. Thank you so much, Senator Carper, for that question. I think as you know, one of the foundations of the National Environmental Policy Act is the belief that there is a value to the participatory process, and to the ability of people to be able to speak to their government about the ways in which actions that the Government is planning can be improved.

We have emphasized from the beginning of the NEPA regulatory process the need for and the value of early engagement. "Early and often" is a phrase that is often said. In our action plan that we released last year, we placed an emphasis on that, in actions that CEQ has taken independently we talk about the importance of that. So we believe that this is a mechanism for allowing projects not to get so far down a path that there is any misunderstanding about what the community

believes is important.

So I think that is an issue that we continue to believe will have some value in addressing longer-term issues.

Senator Carper. Thank you for that.

I would like to ask Mr. Miller the second question, and it deals with interagency coordination. Last year, the Biden Administration released a permitting action plan that has been referred to here today to outline the Administration's strategies to strengthen and to accelerate the environmental review and permitting, as well. One element of that permitting action plan is to promote early cross-agency coordination.

My question is this: How does agency coordination facilitate or impede timely environmental reviews? What administrative and legislative changes can help further improve that coordination, particularly in the context of clean energy projects?

Mr. Miller. Chairman Carper, thank you for the question. This has been a key reform that has been made, both administratively and legislatively in terms of, we have large, complex projects that have multiple agencies with different permits. We have set up a process and we are trying to reinforce that process and expand it across more projects where you have a single lead agency, defining a clear timeline in the front end, bringing together all of the relevant agencies to

establish a clear schedule associated with it, analysis that needs to be done to drive forward on an overall project, make that timeline and project plan publicly available, so that we are tracking it, monitor performance throughout by agency with the lead agency driving that charge. That is at the heart of the FAST-41 process for those projects.

We have been, through our Permitting Action Plan, expanding the set of projects that are leveraging that approach.

Senator Carper. Thank you. Just as a follow-up, how important is it for the Federal Government to also coordinate with States as well as with tribal governments, with local governments in order to facilitate the permitting process?

Mr. Miller. Senator, thank you. Yes, incredibly important to coordinate with States, communities, both through the community engagement process to identify issues early, but also through the ongoing permitting process. There are efforts underway in Georgia, in New York, of State coordination between the Federal Government and the States, bringing all the relevant entities together, sometimes in one room, to make sure there is enhanced communication, that there are no balls dropped about what data analysis is being performed by whom and by when.

That kind of simple set of steps is actually critical when you have multiple parties and multiple entities targeting a complex project, making sure everyone knows who has the ball so

that we can move it forward efficiently.

Senator Carper. Good, thanks.

A quick question for Ms. Harada, as Executive Director of the Federal Permitting Improvement Steering Council, you play an important role in ensuring that major projects move forward in a timely fashion, and also that they meet our national goals and priorities.

My question is, what is the most important thing, the most important thing, that the Permitting Council could do to improve Federal environmental reviews in order to improve certainty while also improving environmental outcomes?

Ms. Harada. Thanks so much for the question, Senator.

In our view, we have a fairly unique perspective given the role that we play in terms of ensuring that agencies are indeed coordinating with one another for the various projects specifically, especially those that are in our portfolio.

We are able to also observe trends across the various agencies, notably around two broad buckets, I would say. The first is around one of the policy issues or the policy questions that different agencies may have different perspectives on, and helping with escalating those or calling the question.

The second area is around identifying where there may be resource allocation issues with respect to ensuring that the work gets done on time, on budget, working hard to ensure that

you have the right brains on the ground looking at the problem at the right time.

Senator Carper. Thanks so much.

We will have time for a second round, and I hope to come back and be able to ask you a few more questions. Senator Capito?

Senator Capito. Thank you.

Ms. Mallory, I wanted to ask you a question. In January, CEQ issues interim guidance for agencies to use in evaluating greenhouse gas emissions during their NEPA reviews. I would like to ask unanimous consent to enter into the record opposition to the guidance from the American Road and Transportation Builders Association as well as the American Petroleum Institute, which details how its use will delay realization of many of the investments in the IIJA.

I don't hear any objection, so I am going to enter it in there.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Carper. The CEQ guidance follows a trend of Federal agencies using guidance to try to force policy or regulatory changes outside the regulatory process and without Congressional authorities. One recent example was the Federal Highway Administration Policy memo that was issued in 2021, which the agency rescinded this year amidst opposition, including from myself.

So, Ms. Mallory, is this merely guidance? Do you feel it is not binding on Federal agencies?

Ms. Mallory. Thank you, Senator, for that question. Yes, the guidance that we issued is guidance. It is a framework that we felt necessary given that there has been such a tremendous amount of litigation in which parties have been told and the Federal Government in particular has been told that inadequate analysis was done on climate change impacts.

So the guidance was essentially to help ensure that we have greater clarity and consistency across the Government in how the analysis is approached, and that agencies are walking through and thinking through the issues that need to be addressed in a greenhouse gas guidance in order to meet the concerns that have been raised by courts.

So agencies can use different tools and approaches, and they have used that as a framework that they can move forward on.

Senator Capito. Did you have public comment on that guidance?

Ms. Mallory. Yes, the guidance was put out for comment at the time that it was issued.

Senator Capito. So I think that is kind of unusual for guidance as opposed to like rulemaking. So I don't know why you would need public comment on a guidance document.

Ms. Mallory. We often do comment on guidance.

Senator Capito. What is the statutory authority that you would move in this direction?

Ms. Mallory. NEPA itself covers the impacts that would come from climate change. That is clear and the courts have clearly said that. So the idea of CEQ helping agencies to think about how they meet that requirement is consistent with our statutory direction.

Senator Capito. Mr. Miller was saying in his, I saw your head nodding when I got into the complicated, I think we agree, the complicated, big projects are the ones that we are really having the problems with on both sides of, whatever ledger you are on, those are the ones that are causing the issues.

You mentioned that things were, you have single, clear deadlines now and a coordination fashion, this is just not what you are hearing on the ground. We have a major project in our State, and the Federal agencies aren't talking to one another.

It is just a serious delay process on the ground, to the point where it could cause a project to either, a, leave, or b, be postponed for another year because of environmental impacts, which this project is trying to ameliorate for the specific period of time they can do it.

Because the permit is so slow coming, they may not have enough time to move the mussels, basically is what it is, in the river.

What am I missing here? Why are we here if everything is going better and we are coordinating better? What are we going to do here to make these projects move faster? All I have heard is earlier engagement by the public. I don't have a big objection to that, but is that the only suggestion?

Mr. Miller. I think we can both say that we have improved the process, but we are far, far short of where we need to be. I think those can be both true.

On the question associated with coordination, there are expectations, and making sure that we have a clear project plan in place with deliverables associated with the overall timeline that is transparent --

Senator Capito. Yes, but they build by their timelines. Agencies build by their timelines.

Mr. Miller. For timelines, an important area and an area that we do need to continue to improve, one, for each time that

there is a delay in a project we should all be crystal clear on the cause of delay. Agencies are required to have remediation plans in place. One of the ways in which we try and hold them accountable is when there is a delay, they need to identify specific challenges.

Senator Capito. I don't mean to interrupt you, but what does that really do? If they blow by their deadlines and you are just asking them, you have to give me a reason why you are blowing by your deadline, that doesn't sound very harsh.

Mr. Miller. Historically you had separate permitting processes that were operating independently. What we are trying to do is create them under an overall coordinated project plan, with the lead agency responsible for --

Senator Capito. Yes, One Federal Decision.

Mr. Miller. Right, which is a requirement under the Bipartisan Infrastructure Law.

Senator Capito. Which has not been implemented over at the Federal Highways sufficiently to make those projects go. And that has been, well, I think President Trump put it in, and then we codified it in the IIJA.

Mr. Miller. Right.

Senator Capito. So we are still not getting satisfactory results from that.

Mr. Miller. So the core construct of One Federal Decision

for transportation projects is something that is being implemented that we need to, yes, continue to improve on overall process. One area that we need to tackle together is both investments in agency staffing, and investment in agency systems. Yes, we need better coordination with clear timelines. But some of our processes are still paper-based, this is not just a problem in the permitting space, this is a problem more broadly.

But it is exacerbated in the permitting space because you have multiple agencies. So you are sharing data in ways that are inconsistent, you are redoing analyses at times because you don't have the systems in place. Those are areas that we also need to improve, which would enable coordination to be more effective.

I don't want to defend that the way it is being done right now is optimal. What I do want to say is, we have made real progress. We are committed to it. I welcome working together with you and this committee to make sure that we are making more progress.

Senator Capito. Thank you.

Senator Carper. Before I turn to Senator Cardin, I would make a unanimous consent request. A reason why it is important for the Federal Government to address climate change and the permitting process rulemaking is that climate is a real problem,

and an expensive one. I want to ask unanimous consent to submit for the record an accounting billion-dollar weather and climate events by the National Oceanic and Atmospheric Administration. It tells us that over the last five years, extreme weather and climate disasters have cost the American people, get this, more than \$595 billion, that is billion with a B, \$595 billion in economic damages.

That is on average, I think about \$120 billion every year. Both of these figures are nearly double the 43-year inflation-adjusted annual average cost.

Without objection, so ordered.

[The referenced information follows:]

Senator Carper. Senator Cardin, welcome.

Senator Cardin. Thank you. Let me thank all three of our witnesses.

Senator Carper. Is one of these witnesses a constituent of yours?

Senator Cardin. At least one. I know Mr. Miller lives in Maryland. I know the other two would like to live in Maryland, if they don't.

[Laughter.]

Senator Cardin. Oh, two of these three live in Maryland. Why aren't you living in Maryland?

[Laughter.]

Senator Cardin. Let me first thank you. I am going to take a little bit different tack here. The permitting process is there for a good reason. I am more concerned about the reasons for permitting being carried out than a rigid time schedule or a rigid decision-making process that could lead to the wrong decisions being made.

Mr. Miller, let me start with the Permitting Action Plan. I want to concentrate on the fifth part of that, which is adequately resourcing agencies and using the environmental review process to improve environmental and community outcomes.

The Inflation Reduction Act, we have heard a lot about it. But one of the things it did was provide additional resources

for permitting. So since you are the person responsible for those funds being allocated, have we made progress in providing adequate resources to the agency so they can carry out those functions? We don't always get the same degree of support from our Republican colleagues who are complaining all the time on the time limits as to resourcing the agency so that they can handle the responsibilities.

Mr. Miller. Thank you, Senator. Yes, it is a critically important issue, as I was noting to Ranking Member Capito. The \$1.1 billion provided by the Inflation Reduction act, \$750 million to different agencies, \$350 million to the Environmental Review Improvement Fund that FPISC manages, is absolutely critical.

The Bipartisan Infrastructure Law also provided administrative resources which can be used for permitting. We are working with agencies, both on an agency-by-agency basis and with the sector-specific working groups to identify areas of shortage. Staffing is one of them.

So not only are we making sure that agencies are allocating their resources appropriately, we have looked and gone agency by agency into what their staffing needs are. That is not a precise exercise, because we don't have the complete demand projection associated with one set of projects that is going to come in. But we know the kinds of areas where there are

shortages.

It is things sometimes as simple as having enough project management expertise inside of an agency to own and drive some of these processes forward. In addition to staffing our systems, this is a government-wide problem, our systems have been underinvested in for years and years, agency after agency. Even our ability to measure and monitor the performance of an individual permit down inside of a region is challenged. So that investment is critical. Thank you for your leadership, for Senator Carper's leadership on making sure that we have more resources.

Senator Cardin. I really want to underscore this. We had a hearing yesterday in the Senate Finance Committee on the Internal Revenue Service and adequately providing them with the resources to carry out their responsibilities. That was in the Inflation Reduction Act. These issues were put into the Inflation Reduction Act because we couldn't get the type of bipartisan support to pass them in the normal appropriations cycles.

It is so important for the agencies to have the resources necessary to carry out our policies, and part of that is permitting. So it was included in the Inflation Reduction Act for a reason, because we couldn't get it through the other appropriation areas. We hear complaints that you can't get

timely decisions, but if you don't have the resources, how can you deal with the challenges? I just really wanted to underscore that point.

The second point I want to raise is a little bit different from that. This committee has heard me in just about every hearing raise the Chesapeake Bay and the water quality of the Chesapeake Bay, and the permitting obviously affects some of the Clean Water Act issues. But I am concerned that at times we don't respect local governments' views and decisions as it relates to the permitting process at the Federal level.

What protections are put into this plan that you have come up with on permitting to make sure there is adequate local consideration by our local governments in the permitting process?

Mr. Miller. Senator, I am happy to take that one, and would also welcome my colleague, Ms. Mallory.

Having good, strong, upfront community engagement, establishing an expectation that agencies are conducting that, having a senior accountable official inside of an agency responsible for community engagement and key complex projects, identifies issues early, it allows us to identify, with project sponsors, project developers, ways to address those issues, so that you don't create an incentive for conflict later, which oftentimes is there area where we see concern. That is an

expectation in the Permitting Action Plan. It is an expectation of agencies that we are holding them accountable against.

Senator Cardin. Ms. Mallory, as a Marylander, how would you make sure Maryland's input is heard?

Ms. Mallory. Absolutely. I think your point is very critical. I think we recognize the importance of State and local governments in protecting their water resources. In fact, one of the things, in addition to what we are doing in the permitting context, where we have coordination with the local entities being critical, one of the things this Administration has underway is a proposal that the Environmental Protection Agency has done that specifically is focused on Section 401 of the Clean Water Act, and trying to ensure that the State and local governments have the authority and the process that they need in order to be able to weigh in on the water quality in their areas.

So that is under process and I think is addressing exactly the issues that you have addressed.

Senator Cardin. Thank you. Mr. Miller?

Mr. Miller. I just wanted to say thank you for your leadership on the Chesapeake Bay, since I with my five-year-old daughter hope to be in the water of the Chesapeake Bay on Saturday afternoon.

[Laughter.]

Senator Cardin. That is the best way to spend this weekend. Thank you.

Senator Carper. Let me remind you that the State with the most five-star beaches in America is actually his neighboring State, Delaware.

[Laughter.]

Senator Carper. We are pretty good buddies.

We have been joined by a Marine Colonel. Welcome aboard, Senator Sullivan. You are recognized.

Senator Sullivan. Thank you, Mr. Chairman. By the way, speaking of your outstanding military service, right downstairs, the Artemis crew that has just been selected to go to the moon is right down there. Three Naval aviators, actually. You would be proud. A really impressive group, right downstairs.

Ms. Mallory, I appreciated the phone call and discussion yesterday. I think we are all very passionate about permitting, I certainly am, and getting projects finalized on time. Alaska has been ground zero for many of the infamous delays, whether it is litigation or Federal agencies or lower 48 environmental groups where it just takes forever to get anything permitted. It really is a disservice to the average citizen, the average American, average Alaskan.

You and I talked about this issue yesterday, which I think is a really important one. There has been discussion, I think

discussion is starting to happen on permitting. But some leadership in the White House is saying, well, we can do permitting reform but only for these selected kinds of projects. It is renewables and things like that. I am for all of the above, wind turbines, solar, hydro, oil, gas, we need it all. The Country needs it all. Bridges, roads, ports, you name it, we need it. Critical minerals.

So yesterday, you said in your view, NEPA is agnostic, it doesn't put its kind of thumb on the scale. If we are going to do permitting reform under NEPA or other processes, do you agree that it should be for everything, all the kinds of things I just mentioned? We are not going to say, hey, we will do wind turbines, but you guys who are producing natural gas, forget it, we are still going to make sure you are delayed by 15 years?

Ms. Mallory. Thank you, Senator, for that question. As we talked about, the focus that we are placing on permitting is looking at permitting systems writ large.

Senator Sullivan. Good.

Ms. Mallory. The National Environmental Policy Act is very focused on making sure that we have good procedures and good approaches to all of the work that we do. In particular, the work that CEQ has been doing is really trying to make sure that agencies have the data through the regulatory process that is necessary for all of their actions.

Senator Sullivan. Any other comments on that? I appreciate that. It is important to state that, particularly given your important role in the government.

Anyone else have a view on that? I only want your view if you agree with Ms. Mallory.

[Laughter.]

Mr. Miller. Yes, the process improvements are agnostic to the types of projects we need, the decision we need, coordination we need, clear transparency we need, accountability associated with those decisions.

Senator Sullivan. Ms. Harada, do you have the same view on that? I just want to hear it from all of you. It is a really important issue, actually.

Ms. Harada. Absolutely. Thank you for the question, Senator, and I absolutely share my colleagues' sentiments with respect to the importance of ensuring that the process discipline and improvement in that is absolutely followed, regardless of what the technology is.

Senator Sullivan. Let me ask another one that is kind of a frustration of mine, certainly in Alaska. This is even, this is your nightmare scenario on permitting. We have had several projects that have gone through their NEPA process, several years with this road, the Ambler Mining District. Ms. Mallory, you and I have talked about the Tongass roadless rule. A whole

host of projects. There is one called the Donlin Mine, it is a big gold mine on Alaska Native-owned land.

What happens in Alaska, and unfortunately, the Biden Administration has really been problematic in this, you have been going to a number of projects that have gone through NEPA, gone through an EIS, taken five, six, seven, eight years, cost \$10 million, and groups come and say, well, we didn't like that. The Biden Administration reopened that, reversed that, and you are doing it, you are doing it in my State.

You want to talk about killing certainty, I mean if you have a six-year NEPA process that costs \$10 million, for example the Ambler Mining Road, and the day the President holds his critical mineral summit, the Department of Interior says, by the way, Alaska, we are going to reverse that. You didn't consult enough. That is the big excuse you guys use for us.

What does that do to investment? What does that do to certainty? Can you commit to this committee that, hey, if you do a seven-year NEPA process that costs \$10 million by the professional staff of the Federal agencies, yes, it was with the previous administration, I know you don't like those guys, but the vast majority of these are done by the professional Federal employees.

Then you come back and say, we are going to reopen that, and you, Alaska, can start again. They are trying to do that

right now on a mine called the Donlin Mine. It got its record of decision five years ago, five years ago. I mean, we will turn into a banana republic if we start going to projects that were fully permitted five years ago and say, we are going to reopen that.

So what is your thought on that? Permitting has to involve certainty. Reopening old EISs and records of decision because some lower 48 environmental group is asking you to do it is not certainty at all. Can I get your guys' views on that? It is a huge problem in my State. You are doing it a ton. I have a whole list that I could submit for the record. But it is crushing my State, the workers, certainty, investment. It is just not right, like I said. Venezuela does this. But America shouldn't do this work. We are a country of the rule of law.

Do you have a view on that?

Ms. Mallory. Thank you so much, Senator. I appreciate the question. I think, as we discussed yesterday, we are moving forward. One of our main goals is to make sure that we are giving the agencies clear enough guidance about what they need to do in their environmental review processes, so that they can proceed in a way that people can rely on.

I think you have described a number of different circumstances in which the judgment was that the environmental analysis was not adequate, or the consultation was not adequate.

So what --

Senator Sullivan. Respectfully, that is just, you are using that excuse in Alaska all the time. And we have these EISs that are complete and records of decision, millions of dollars spent, six, seven years. And you are coming in going, eh, not enough consultation. Start again.

That is the death sentence to any kind of -- I want to get your guys' commitment to stop doing that, right? These are records of decisions that have been made by the professional Federal Government employees, and your guys' positions, the Department of Interior. And it is just killing the idea of certainty, particularly when it is focused on one State. We know it is my State that gets most of the action.

Can I get your commitment, though, to just be really skeptical about doing that? You finish the EIS, the record of decision comes out, again, right now they are trying to do it, there is a group trying to do it on the Donlin Mine. Five years ago, we got all the records of decision. Some groups are trying to reopen it.

We should just tell them no.

Ms. Mallory. That is what I am saying, Senator, is that I think what we have found, and I don't want to get into individual circumstances, because I am not familiar with them, but what we have found in a general way is that when there is a

weakness in the analysis, then we are going to find ourselves in court in ways that are going to lead us to go back anyway.

So I think the agencies are trying to balance that. On the particular circumstances you are describing, I don't know those details. But I do know that that has been an issue that has come up.

Senator Sullivan. Okay, thank you. Thank you, Mr. Chairman.

Senator Carper. Mr. Miller, do you have anything you want to add to that? Ms. Harada? Okay.

We have been joined by Senator Kelly. You are recognized. Welcome.

Senator Kelly. Thank you, Mr. Chairman. And thank you all for being here today.

I have a similar question that Senator Sullivan had. Let me start with Ms. Mallory, on the Permitting Action Plan released by the White House last year. It identified several types of projects where the Administration would assemble teams of experts to identify ways to facilitate siting, permitting, environmental review projects. The list of these projects included things like renewable energy and broadband, critical minerals, and transportation projects.

But it didn't include water infrastructure or water supply projects. We have this 20-drought going on.

Could you explain why the water infrastructure and water supply projects were left out?

Ms. Mallory. Thank you, Senator, for that question. Yes, I think what we were trying to do as we set up the action plan was to highlight those areas where we knew there was ongoing and very active actions, interagency actions of the most complex nature. There were already some conversations occurring in order to take advantage of the fact that so many agencies were working on them.

So those lined up with funding priorities that had been set by Congress, and that they were areas where we knew it would be helpful for us to step in. We did not intend for that list to be an exclusive list. The basic principles that are set out in the action plan and where we are working with agencies around their NEPA and their permitting compliance in general go beyond those sectors. Those sectors are just places that stood out as needing particular attention.

Senator Kelly. So it was a coincidence that there was just no water supply or water infrastructure projects included?

Ms. Mallory. I think the water projects, as I am saying, is that there is a system in place, there is a familiarity in dealing with those. So just using the tools that we have identified for use for those specific sectors is working. If there is a situation in which it looks like we need some extra

added benefit of a sector, I think that could be added in the future.

Senator Kelly. Okay. The \$4 billion that we appropriated to be used by Reclamation is going to be used in response to a lot of, it is for drought, and mitigation of the drought. So there will be a significant number of water supply and infrastructure projects.

Could you talk a little bit about the specific actions that your office has taken that the Administration has collaborated with Reclamation to ensure that as we start this process, the NEPA process, that we don't face significant delays? Is there anything that you can specifically point to?

Ms. Mallory. Yes. This to me is another good example of where having the extra funding that is focused on staffing and resources from the IRA has been really important in allowing the agencies to position themselves around the compliance that is necessary. We have a separate, under the Climate Policy Task Force, a separate drought focused interagency group. That interagency group talks about the range of issues that come up with respect to those projects and how we can get ahead of any anticipated challenges. That is working to assist us, so that we are able to move forward on these projects quickly.

Senator Kelly. Mr. Miller, anything more that you could share on actions at OMB that the Administration is taking to

support the deployment of more water infrastructure projects?

Mr. Miller. Senator, thank you, and thank you for the question and your leadership on this issue.

As my colleague noted, staffing is an area that we have been particularly focused on at the Department of Interior, but also more broadly one of the things we have been trying to support as identifying the specific capabilities and capacity that are needed for permitting these projects to make sure they are moving forward and working with the Office of Personnel and Management to make sure we have the HR strategic resources, the hiring authorities needed to onboard.

The second area we have been looking at is systems, systems capacity. We have been using some expertise from our U.S. Digital Service to dig into that question of how data is captured, how data is shared, the underlying IT systems for both performance measurement as well as capturing information necessary for both analysis and the permits.

Senator Kelly. Finally, if I could just have a few more seconds, Mr. Chairman, Ms. Harada, would a water supply project that is funded by Reclamation using IRA funds be eligible for FAST-41, for that process?

Ms. Harada. Thank you so much for your question, Senator Kelly. As a Southern California native, the drought issue is absolutely central to our families' concerns.

To answer your question, sir, fundamentally any project that is subject to NEPA and requires over a \$200 million investment can and does qualify for FAST-41 coverage. Water infrastructure is indeed one of the covered sectors that is authorized for us within the FAST-41 statute. So the bottom-line answer, sir, is yes.

Senator Kelly. We noticed that there were only four Reclamation projects listed on the permitting dashboard that your office maintains, and none of them were FAST-41 covered projects yet. Why do you think so few water supply projects get listed on the dashboard?

Ms. Harada. Thanks for the question, Senator. One of the issues that we are trying to address is that because the agency only recently became permanent in 2021, many project sponsors candidly kind of turned off their attention, if you will. You are not going to be around here in two more years, my project is probably not going to get permitted in that time frame.

But since we have become permanent, again thanks to this committee's leadership, we have seen renewed interest in the number and types of projects and diversity of sectors. I attribute the lack of water infrastructure projects more to a lack of awareness about FPISC and the Permitting Council and our authorities and our capabilities. That is something that our team is very actively working on and would very much appreciate

your support in getting the word out, sir.

Senator Kelly. Thank you. We would like to see more of these water supply projects qualify for the FAST-41 permitting process. Thank you.

Senator Carper. Senator Kelly, thank you. Thanks very much for joining us.

We have been joined for the second time by Senator Ricketts. We have now 14 recovering governors who serve in the U.S. Senate. I am proud to say that he and I are two of them. I am going to yield to him right now.

Senator Ricketts. Thank you very much, Mr. Chairman, and thank you to all of our witnesses for joining us here today to talk about this very important topic of permitting reform.

The permitting process takes too long and costs taxpayers too much money. With all the ambitious projects that we have for our Country, not the least of which is creating more power generation, transmission generation, roads and bridges, permitting is going to be very important to get right, so that we can get these projects done.

One of the things this committee has heard me talk about is the permitting reform we did in Nebraska. We leveraged a process improvement methodology called Lean Six Sigma to streamline the processes, so for example for our construction permits, we were able to take the time it takes down, because we

limited the number of processes from 110 down to 22, and that cut the process down from 190 days to 65 days.

Number one was our Green Streets we did in our department of transportation. We cut that from 87 steps down to 60. That process went down from 16 days to 3 days. So in a variety of ways, we have been able to streamline the process just by getting rid of duplicative steps.

Ms. Mallory, at the Council for Environmental Quality, are you familiar with Lean Six Sigma or other process improvement methodologies?

Ms. Mallory. Thank you so much for that question, Senator. I am not specifically with Lean Six Sigma. I am familiar with lean processes. That is something that the Federal Government has done in the past. I would say just in terms of the framing that you put on it, our goal as we have been talking today is to make sure that we have smart decisions that are meeting our environmental requirements, and including public engagement.

If looking at lean is a tool that shows ways in which we can do that, I think we would be open to learning more about what the system offers and how it could fit in.

Senator Ricketts. Okay, great. I presume from your response that you are not aware of anybody who is using it right now within those areas.

Ms. Mallory. Specifically not what you described. I know

that lean has been done in the Federal Government for other --
Senator Ricketts. But not associated with the permitting
process.

Ms. Mallory. Yes. I am not aware of that.

Senator Ricketts. Okay, great, thanks. Mr. Miller, are
you familiar with lean processes?

Mr. Miller. Yes, sir.

Senator Ricketts. Would you say just generally, like
looking at how you can streamline the processes, you are not
changing any sort of requirements, just as, it would be a god
thing to implement?

Mr. Miller. Yes. Absolutely. I am not a Lean Six Sigma
black belt, but I am familiar with it. Process reengineering is
something that is absolutely necessary in this space. I think
what you are speaking to, cutting out unnecessary steps,
unnecessary back and forth, one of the complicating factors in
this instance is steps required between agencies. So we both
have to do processes that look internally within an agency, and
then more broadly as well as the engagement from that process
with State and local governments, and the project sponsors to
just cut out waste from the system.

Senator Ricketts. Funny you should mention black belts,
Mr. Miller, because we actually trained up a number of our
teammates, everybody got white belt training, which is the

introductory level, but we also trained up over 5,000 yellow belts, we did green belts, executive green belts. And then our black belts actually were responsible for working on processes that involved multiple agencies within the State of Nebraska. So there is an opportunity there.

Ms. Harada, thank you very much for your work on the Federal Permitting Improvement Steering Council. Are you familiar with Lean Six Sigma or similar types of process improvements?

Ms. Harada. Thank you for your question, Senator. As a former management consultant, I am rather familiar with Lean Six. I think the word you did in Nebraska is fantastic,

To build on both my colleagues' answers to your previous question, sir, we are indeed undertaking some of those types of efforts with much more focus on a particular project, if you will, working through both not just from the process step side of things but also from the policy and ensuring there is good data sharing, both between the Federal agencies as well as with the State governments that we are working with as well.

Senator Ricketts. I am going to put you on the spot a little bit. As you have reviewed some of this stuff, where do you think the biggest obstacles are in the processes? What process in particular has the most opportunity for improvement?

Ms. Harada. Thank you, Senator, for that great question.

I attribute the fundamental issues to three things. First is around, as my colleague Jason Miller was just sharing, data sharing. Enhancing the technology and the types of data that we should be sharing, not just amongst the Federal agencies, but also with our State colleagues, and with the project developers would be absolutely vital to ensure that we are cutting down the time frame and making that a lot more efficient.

Second, agreeing on what the information elements are and should be. We find in our experience at the Permitting Council that frequently there is a loss in translation element, that frequently Federal agency biologist nerds don't speak broadband deployment.

Senator Ricketts. I am a biology major, just so you know. Careful there.

Ms. Harada. I am an aerospace engineer major, yes.

[Laughter.]

Ms. Harada. Therefore, that type of nerd-speak, they don't speak the same kind of English. So we do serve that type of translating role, if you will.

And certainly last but not least, having that clarity around what the master chart, GAANT chart should look like, what is the critical path of ensuring that we can get the permitting process through. Having that kind of transparency and coordinated project plan I think is also super-critical to

ensuring that those kinds of processes go much more smoothly.

Senator Ricketts. Great. Thank you very much. Appreciate it. Thank you, Mr. Chairman.

Senator Carper. I think you two have found a common cause. You speak the same language, that is great.

We have been joined by Senator Merkley, welcome. And by Senator Markey. Senator Merkley, you are recognized. Thanks for coming.

Senator Merkley. Thank you, Mr. Chairman.

Ms. Mallory, if we were to burn all of the identified reserves of fossil gas, coal, and oil, would we break the 1.5 degrees goal for humanity?

Ms. Mallory. Thank you, Senator, for that question. I feel like I can't quite answer that. I know burning all of the reserved fossil gas would be problematic. I can't answer the question in the way you framed it.

Senator Merkley. Okay. So most of the estimates are that if we burn half of the identified reserves, collectively, we break 1.5 degrees. Is that a problem?

Ms. Mallory. Again, thank you. As you know, the Administration is very focused on meeting a net-zero goal by 2050. The President's agenda is very focused on decarbonizing as quickly as we can.

So those are the steps that we are taking to sort of move

in that direction, recognizing that we are in a transition which does not enable us to stop everything.

Senator Merkley. So we already have a massive amount of fossils that have already been permitted for extraction currently in the United States, a massive amount. Given that burning half of the reserves in the world that are currently identified, why is the Administration approving new fossil gas and fossil oil projects?

Ms. Mallory. Again, thank you for the question. I think what the Administration is doing is recognizing that we are moving in a certain direction, but we are in a transition phase. We are not in a position where we can completely stop approving all projects today. We are getting to that point, and doing it by reducing the amount and the way in which some of the projects have been approved.

Senator Merkley. Let me just say, factually, scientifically, you are wrong. We have already issued extraction permits for a vast amount of additional fossils. Therefore, no new permits are required for new oil and gas and coal.

So I find it interesting to read that the proposal being promoted on the House side is to do permitting reform that allows new fossil gas permits while delaying discussion of what we really need, which is transmission capacity in our electrical

network. Shouldn't it be the reverse? Shouldn't we be focusing on permitting for the transmission of electric power first, rather than focusing on expediting or increasing the number of fossil fuel permits?

Ms. Mallory. Thank you, again, Senator, for that question. I think this Administration is very focused on transmission and is using the tools that we have available to us now to address transmission in a way that is expedited. The Memorandum of Understanding that was signed last week by a number of the agencies is designed to help us use our tools and the authority that the Department of Energy has under the Federal Power Act to move forward on transmission as quickly as possible.

But that is a place where there is a need for Congressional action.

Senator Merkley. So I can have confidence that absolutely the Administration will reject any path forward that involves more permitting for fossil fuel projects, while delaying any changes or any debate on improving transmission?

Ms. Mallory. Senator, what I am saying is that we understand the importance of transmission moving forward, and trying to have the tools necessary for that.

Senator Merkley. So you cannot assure me that the Administration will not agree to more fossil fuel permitting while leaving transmission to a later date?

Ms. Mallory. No, Senator, I can't.

Senator Merkley. Well, that is horrific. We are in a situation; my State is burning up from climate change. We already have issued permits for a vast amount of fossil fuel extraction. We need to pivot to renewables quickly, and should be expediting the things that make that possible, not issuing new fossils while blocking the things that will make renewable possible, which is electric transmission. Don't you agree with that?

Ms. Mallory. I think, Senator, as I said, the Administration is trying to look holistically at where we are at this moment and trying to move as quickly as possible towards the decarbonization and using our means to do that. There are circumstances in which I think the Administration has felt that permitting was necessary and that is how they acted.

Senator Merkley. I will close by noting I was just recently in Southeast Asia. One of the countries I was in was Indonesia, which has a very large coal industry. I have also spent time in India, which has a very large coal industry. I have had conversations, I read the dialogue between American legislators and Indian legislators at the Paris Talks.

The Indian legislators said, hey, why should we take on our coal industry while the U.S., which has one of the largest carbon footprints per person in the world, where we have one of

the smaller ones, is still permitting new oil and gas? Why should we take on our coal industry?

I was just in Indonesia; they have a big coal industry. They have put out a theoretical vision for 2050, which is great. But it is like a castle in the sky. You ask them, you hold the conversations and they are like, yes, we are not doing anything concrete. We have a powerful industry, and look, the United States is still issuing permits for new fossil fuels.

So the point I am ending on is that one, we don't need to issue any new permits for fossils, because we have already issued a huge amount for fossils to be extracted in the decades to come. Second, doing so is undermining any moral authority the U.S. has to help lead the world in attacking climate change. This is the biggest issue facing humanity, and it is a huge mistake.

Thank you.

Senator Carper. Thank you, Senator Merkley.

We have been joined by Senator Cramer. It is good to see you.

Senator Cramer. Thank you, Mr. Chairman. Thank you all for being here.

I am glad I got here for the last couple of minutes of that, because I am perplexed by the idea that somehow, we have plenty of fossil fuel permits issued, well into the future. We

have hundreds and hundreds and hundreds of prepared permit applications on Federal land in North Dakota, the cleanest oil, by the way, in the world, and produced, the cleanest, in North Dakota. Even after a judge has ordered the Administration to stop violating their law and doing the required by law quarterly auctions on the Federal lands. It is incredible. And the idea that somehow we are going to electrify everything with some new transmission.

By the way, I sited lots of transmission lines when I was on the North Dakota Public Service Commission. I never had a hard time permitting a transmission line in North Dakota. Never did.

Now, we always had trouble when we got to the Red River, beyond that. So we had to trick the system in ways, we would take more transmission of our product into the big towns in North Dakota and use existing transmission lines to move our other electricity, the legacy lines that had gone into Minnesota for decades, whether it was wind or coal or natural gas, we have all of the above.

So I empathize a little bit with the siting of transmission. But I don't think that what we are talking about, if we do what H.R. 1 is suggesting, it is not just about fossil, it is about all energy. It is fuel neutral. But when you start having to pay for these projects that are localized, that is

where things get complicated.

I believe, and one thing I love about Senator Merkley is he likes to debate. We don't do enough of it, do we, Jeff? We don't do enough debating around here, enough talking. All of that, and I haven't even begun.

Anyway, I thank you all for being here. I have a question I may not ever get to. But first of all, I am disappointed that there aren't any agencies here that actually issue permits. I am hoping, Mr. Chairman, we will have one of those too, at a hearing.

Senator Carper. If you want us to, we just might do that.

Senator Cramer. I appreciate that. Not that you all are not important to the process, but we need to talk to some people that actually permit some things.

Do you guys, and I will start with you, Ms. Mallory, since you oversee, CEQ oversees NEPA and obviously their projects, and we had a lot of discussion, bipartisan discussion, about the process and the timelines as we have been talking about. Do you think timelines can be an enforceable thing? In other words, whether it is a two-year EIS, one-year EA, how would we enforce that? Do you worry that it can be gamed by the favored fuel? Whichever fuel that might be, it could be on either side. Do you worry about that?

Ms. Mallory. Thank you, Senator, for that question. I

think what we have tried to focus on in our permitting action plan is a recognition that we need to have agencies focus on what is possible on a particular project, so that you have ambitious timelines, and that you set those timelines in ways that allow the agencies to take into account what the requirements on that project are or what the specifics of that area are, but that you use that as a driving force behind their behavior.

Then the accountability measures actually come through the oversight, the interaction that we have with the leadership of the agencies, making sure that they are staying on track, and that we have the ability to respond when they need additional resources or when we need to have agencies share, or interagency process to work more effectively.

That is what we are using. I believe it is an appropriate way to address oversight.

Senator Cramer. One of the things, when we were siting pipelines in North Dakota, and I have sited a lot, the Keystone Pipeline, 600 landowners, not one inch of it was taken, not one inch of that land was taken. That is kind of amazing. I don't know that we could do it today.

But even gathering lines on Federal lands and what-not, we found a way to streamline the process through the interagency process, with actually adding environmental protections. In

other words, there was even more review, because there was a synergy of all the agencies working at the same time, rather than in chronological order. They were working collaboratively.

This is a win-win. Whatever side of the issue you are on, that seems like a win-win. We need to get to that. I don't know that another council in the process actually helps it a lot.

I was going to ask you about major questions, doctrine at the courts and the impact that might have.

Senator Carper. Go ahead.

Senator Cramer. Does anybody have any thoughts on that? The court's recent decision in West Virginia v. EPA, for example, I know it is not permitting specifically, but it is related policy in terms of agencies taking authorities that weren't granted them. Do you watch that more carefully now that the court has said, no, listen, the absence of a prohibition is not a license to create power for yourself?

Ms. Mallory. Thank you for the question, Senator. Obviously when the Supreme Court rules on an environmental policy, we take that very seriously and organize ourselves with that in mind.

Senator Cramer. Good answer. Thank you. I am sorry I went over time. I got fired up.

Senator Carper. That is a good thing.

[Laughter.]

Senator Carper. Good morning, Senator Markey. How are you doing?

Senator Markey. I am fired up; I am ready to go.

[Laughter.]

Senator Markey. This is a great hearing. Thank you, Mr. Chairman.

Senator Carper. In that case, we could be here for a while.

[Laughter].

Senator Markey. Right now, our project development systems in the Country, it is like a car moving slowly down a bumpy road. Some of the Republican proposals for permitting are the equivalent of trying to fix the car by throwing out the brakes and the steering column. You would go faster, but you wouldn't end up anywhere good.

So Chair Mallory, when changes to the National Environmental Policy Act, such as requiring approvals within a strict timeline, or setting firm page limits, how many pages you can actually use in trying to describe a decision that is being made, will they help to speed up project permitting, or would they complicate the process?

Ms. Mallory. Thank you, Senator, for that question. I think what we have done in our action plan is to focus on the

importance of having accountable goals and targets that we are working for. We think that that is a helpful mechanism for the system and that it enables both the agencies to work around it, but also gives some transparency to the public.

So we think it is important to have goals. Those goals from our perspective need to be mindful of what is required of a particular project development, so that you are actually focused on what are the needs in that situation, and that may make adjustments along the way.

So we think that you could have projects that go faster than your targets. But you can also have projects that recognize that some adjustments may be necessary.

Senator Markey. Ms. Harada, in your experience with projects going through the Permitting Council, would shortened NEPA timelines help or hurt interagency coordination?

Ms. Harada. Thank you so much for the question, Senator. As you may be familiar, the Permitting Council works with the most complicated projects of the 100,000 or so projects that are permitted every year. We truly are working on the .1 percent or so of the largest and most complicated infrastructure projects.

With respect to your question on page limits and what-not, I think that whatever types of suggestions and targets we want to implement, make sure that are not unnecessarily or very rigidly constraining the agencies from arriving at the best

solutions, whether they be from a technical perspective, of course, obviously environmental protections, but ensuring that there is really good and sustainable community outcomes, excellent tribal engagement, so that we are all on the same page in lockstep with respect to ensuring that we are delivering an infrastructure project that is actually viable.

Senator Markey. Thank you. Yes, to really fix the slow progress of developing projects that can help our communities thrive, we don't need to attack NEPA. We need better road signs, better drivers, a better road. That means including environmental justice communities early in the process, improving staffing and chains of command in the Administration and in State and local agencies, and implementing policies that will fix our transmission system.

Ms. Harada, if NEPA timelines or page limits for reviews are not the issue here, what do you observe as major drivers for delays in the system today?

Ms. Harada. Thank you so much for the question, Senator. I think it is truly thoughtful, because the true drivers of major permitting delays largely are threefold. First, there is insufficient engagement up front with the communities that are potentially impacted, the tribal nations that need to be involved in the process. Nobody likes a surprise. Nobody likes a solution to be imposed upon them. It is an incredibly useful

and fantastic investment up front to engage those communities in the overall project design.

Second is around ensuring data quality and collective understanding between Federal agencies, State agencies involved in the process, as well as the project sponsors with respect to what data needs are specifically required in order to be able to answer the pertinent question.

Certainly, last but not least in that regard, ensuring that there is sufficient agency capacity available to be able to actually do the work that is needed to ensure that we are following the respective authorities.

Senator Markey. Thank you. And if we don't have public engagement and consultation with tribal and environmental justice groups and if environmental assessment and impact statements are rushed or poorly done, progress can be held up in the courts and wind up with even more opposition from local stakeholders. It is a paradox.

Chair Mallory, would you please elaborate on how a robust NEPA process and engagement with environmental justice communities can actually help prevent delays in project development?

Ms. Mallory. Thank you, Senator. You are speaking to what we believe is a really important part of the process and ensuring that we can keep to the timelines.

NEPA has always encouraged early engagement with communities, early and often is the phrase that is commonly used. In the Permitting Action Plan, as well as our engagement with the agencies across the board, we are emphasizing that, because we do think that it allows for avoiding some of the problems that might be unknown or not learned about until late, and the result of that is extending the process because of litigation or because of just the concern of communities not being willing to buy in because of a lack of trust.

So we definitely encourage that.

Senator Markey. Thank you.

Obviously, our conversation about developing a clean energy future shouldn't focus myopically on NEPA and permitting of new projects. Issues like transmission planning, cost allocation, interconnection lines, are also delaying much-needed investment in clean energy transmission.

While I will be reintroducing my CHARGE Act to direct the Federal Energy Regulatory Commission to take action to address these and other issues, FERC could act to fix these issues right now, without any need for new legislation, with their inherent authority that they already have.

Mr. Miller, do you agree that FERC has the ability to approve the way clean energy projects get planned and connected to the grid already with the existing authority?

Mr. Miller. Senator, thank you for the question, and thank you for your attention to this topic and making sure that we are all focused on the need for more transmission, including some of the small projects that interconnects, that are critical for offshore wind.

I know there is some debate on the use of FERC authorities. It is clearly a priority of this Administration. We outlined it in terms of potential legislation. I understand that FERC is also looking at ways to utilize its authorities through regulation. There is a pending seat that would be required to be filled to move forward on certain regulations.

But solving this problem, whether through existing authorities and new legislation, we have to do it or we will not meet our climate goals.

Senator Markey. Yes. So that is the bottom line, we have a two-to-two FERC, we will get a two-to-two Federal Communications Commission. Daniel Patrick Moynihan used to say, if you didn't want to help an issue or hurt an issue, you just engaged in benign neglect, you just don't do anything.

But this is different. This is designed neglect. It is not giving the agencies the resources they need. It is not having a fifth commissioner to break the ties. It is not making it possible for us to be able to move forward when all the inherent authority is there. It is designed neglect of a

system.

Then turning and saying, well, the answer is more permitting. We need actually more fossil fuel projects that are put online while there is delays that are built into the system because of designed neglect for the transmission system to be modernized so that we can have the clean energy be put on it to remove the need for additional fossil fuels.

Thank you all so much for your testimony. Mr. Chairman, thank you for your indulgence in letting me go on a little bit longer.

Senator Carper. Before the Senator from Massachusetts leaves, I want to thank you for the CHARGE Act. Our staff and I spent a fair amount of time with your staff discussing it. I think it needs to be included in whatever proposal comes out of this committee going forward. So thank you very much for that.

Senator Markey. And I thank you and your staff as well. They have been great.

Senator Carper. You bet. We have a couple more questions, and I am going to lead into this question. It will be a question for each of you to answer. I go to work almost every day on the train. Biden used to do that, we used to actually ride together sometimes.

Another guy who used to ride the train a lot was Albert Einstein. I think he got on at Dartmouth, and he would take the

train up to New York or he would take the train down to Washington quite a bit.

One day he got on the train, sat down, and started looking for his train ticket and he couldn't find it. The conductor came by, and he said, I have been in this predicament before, but he was looking for his train ticket, he was looking in his coat, his pants, looking in his briefcase and couldn't find it. The conductor comes along, a young guy, and he said, Dr. Einstein, we know you, we know who you are. You are good, it is okay, we know who you are.

The conductor started to walk out of the car, went to the other end of the car, he was about to enter into the next car. He looked back over his shoulder and Dr. Einstein was down on hands and knees, still looking for his train ticket. The conductor rushed back and said, Dr. Einstein, we know who you are. You don't have to do this; we know who you are.

Dr. Einstein looked up at him and said, I know who I am, too, I just don't know where I am going. Isn't that a great story?

I said earlier in the hearing that I thought there might be three objectives that we should pursue in terms of where we are going. I have modified that during the course of this hearing, what we need is to maybe think about four objectives in terms of where we are going. I want to mention those to you and ask each

of you to think out loud about which ones make sense, which ones don't, or if they need to be modified.

Four objectives. The first, any serious proposal must reduce greenhouse gas emissions while upholding our Nation's bedrock environmental statutes. I will say that again. Any serious proposal must reduce greenhouse gas emissions and uphold our Nation's bedrock environmental statutes. That would be one.

Second would be, address transmission barriers that make it harder, address transmission barriers that make it harder for renewables to connect to the grid, address those barriers that make it harder for renewables to connect to the grid.

Third would be that those proposals must support early and meaningful community engagement. Those proposals must support early and meaningful community engagement.

The fourth, in terms of where we are going, would be the legislation that we eventually adopt and send to the President must provide businesses with certainty and predictability. Must provide businesses with certainty and predictability, what they need to make long-term decisions. Again, provide certainty and predictability to businesses that need to make informed long-term decisions.

This is probably not an all-inclusive list, but my staff and I worked on this a little bit. I have tried to put it in terms and words that folks can understand.

Let me ask each of you to think out loud on this. Christine, why don't you go first? If you say those are the four dumbest ideas I have ever heard, I won't be offended. But I don't think you will say that.

Ms. Harada. Thank you for the opportunity, Senator. I am in violent agreement as much as possible with those four objectives.

Senator Carper. Did you say violent agreement? I like that. We don't hear that very often.

Ms. Harada. Yes. I don't want to pound this table.

Senator Carper. We need to have more violent agreement in the Senate.

[Laughter.]

Ms. Harada. If I may offer up one clarifier, if it is okay with you.

Senator Carper. Please.

Ms. Harada. With respect to the third bullet around early and meaningful community engagement, 100 percent. If I may also add a clarifier with respect to tribal nation and government-to-government consultation, please. Frequently in our experience, specifically calling out tribal nation engagement is key in ensuring that Federal agencies are indeed prompted to go out and actually do it. So that would be super critical, please.

Senator Carper. All right, thank you. And thank you for

introducing a new term, violent agreement. That is great.

Mr. Miller, please.

Mr. Miller. Thank you, Senator. I think this is a good list. What I would add to it, and one of the common themes you heard from the three of us in many of the questions is ensuring that we have systems in place inside of our agency including the technology systems, data systems, and people need to actually carry out this work. It is absolutely critical, and something that we have underinvested in for far too long.

Senator Carper. Good. Do you think we continue to underinvest, or do you think we have sort of atoned for our sins with respect to investing?

Mr. Miller. I think the investments in the Inflation Reduction Act in particular, with the \$1.1 billion, both agencies and FPISC, is a critical step forward. We have to execute on those investments, and that is what we are working on right now. That focus, and ensuring that we continued to have those resources, we get appropriate appropriations on an ongoing basis so that agencies have certainty, so they can make multi-year technology investments, is often a place that we stumble.

Senator Carper. Okay, good. Thank you.

Chair Mallory? Do you like to be called Chair Mallory?

Ms. Mallory. I actually like to be called Brenda, but nobody listens.

[Laughter.]

Ms. Mallory. Thank you for that list as well, Senator. I agree with both of the additions that my colleagues have made. I think in particular, just in talking about upholding the bedrock statutes, I want to underscore the emphasis on having sort of smart decisions that are based in science. I think that is a critical element that we want to not lose.

Holding on to that may also affect what is a reasonable choice when you start to talk about timelines and other ways to frame the way the process runs. So reminding ourselves that that is our anchor. The point of a permitting system is to protect the public. We want to make sure that whatever we do doesn't lose sight of that.

Thank you very much.

Senator Carper. Be guided by science, continue to be guided by science. Some of my colleagues and I are big music fans. Going back in time, there was a guy who was a one-hit wonder, his name was Thomas Dolby. He had one big hit, and the song was "She Blinded Me With Science." You may remember that one.

I always say, we don't want to be blinded by science, but we ought to be guided by science. Hopefully, that will continue to underwrite everything that we do. With apologies to Thomas Dolby.

All right, we have been joined by a terrific colleague from a large State, one of the two largest States in America.

Senator Whitehouse. Rhode Island and Delaware.

[Laughter.]

Senator Carper. Joined at the hip. Actually, we are joined at the hip on a lot of issues as well, including the ones we are talking about here today. I am delighted to yield time to him right now. Sheldon, welcome.

Senator Whitehouse. Thank you, Chairman. First of all, I believe very much that this committee has a very important role to play in the permitting reform conversation that is going to take place in the Senate. I appreciate your leadership in making sure that this committee's role is real and vindicated.

I look forward to working with you, and I thank you for including the transmission siting proposal in the bill. I hope to be able to get you an offshore wind permitting reform proposal shortly. We are going through the final strokes on that.

That really is going to be my topic with this terrific panel of witnesses. Thank you all for being here.

Rhode Island is very close to offshore wind. As you know, we solved the siting problem first and got the first steel in the water and the first electrons on the grid. I was very close to that process at the State and Federal level as it went out.

What I have seen is the offshore wind industry come in with enormous enthusiasm and confidence, but it has been replaced by anxiety and caution. I think we are at risk of losing offshore wind projects. Eversource, which is one of the partners in a big offshore project off of Rhode Island, announced to its investors that it was getting out of offshore wind because it no longer sat it as a viable business proposition. There seems to be considerable anxiety about the permitting and regulatory uncertainties and delays that are driving that perception of risk.

So I think we are close to having a real problem in that area if that isn't addressed quickly. I know that the so-called sherpa left the White House who was guiding this. I don't know if there is a new sherpa to help move through.

I am terrified by "interagency process." I know it is a phrase that everybody loves and it does indeed get everybody in the room. But it is very often, I think, death by interagency process that ensues. But the pace of the interagency process is the pace of the slowest and least competent and most recalcitrant agency in the interagency process. At the end of the day, nobody is accountable for the interagency process, everybody just points at each other for a failure.

So I am very, very anxious that the interagency process is a solution to what I see as a very dramatic degradation of

confidence and enthusiasm in the offshore wind industry and our ability to get these projects on to a reasonable timeline for investment. It is more problem than solution. I worry that we are getting to the place where unless some real hands-on leadership takes place, we are going to see companies backing away and we are going to see the President's pledge to get to 30 gigawatts of offshore wind simply no longer feasible.

So I would really urge, if there is stuff you need in our offshore wind permitting reform, get it to me now. We need to move this along.

I will flag one other piece of legislation I think is important, which is our RISE bill. If you want to do offshore wind in the Gulf of Mexico, then to set up a situation in which when the local neighboring States, their legislatures and their governor look at further investment in oil and gas and see a 37 percent share of revenues coming to their State, and they look at an offshore wind alternative to that and see from that investment zero coming to their State, that is a pretty equation for a speaker who has to put a budget together or a governor who has to work with the legislature to say, oops, we are getting the signal from the Federal Government that we want more oil and gas exploration.

We are rewarding States for pursuing oil and gas exploration. And when it comes to the offshore wind, I think

the Delawarean and Rhode Island term would be bupkis.

So I think the Administration may need a reset on the offshore wind process. I am more than happy to participate in trying to accommodate that. But I really, really, really don't want to see this turn into a cascade of failures as a couple more companies pull away from projects.

Senator Carper. We have our work cut out for this. But I think we can do this. I like to quote Henry Ford, who used to say, among other things, "If you think you can, or you think you can't, you are right."

Senator Whitehouse. Let's make this a "can." We really do need those 30 gigawatts; we really do need these jobs. It really is important, and we need to get out of our own way.

Senator Carper. There you go.

I have a couple of specific questions for you, but I am going to ask a general question for each of you. Something you would like to have been asked but you were not asked, if you would like to pose a question and then answer it, I would like for you to do that. What you would have liked to have been asked but were not asked that you think is appropriate, and give us a good answer for that. I don't do this for every panel, you know, just special panels.

Mr. Miller. I was hoping Senator Markey would follow up after he was talking through the dynamics on transmission and

the challenges, including the prioritization around making sure that we are reforming the permitting process. The specific item when we are talking about whether it is a good or bad thing to have equivalents across different technologies, the specific thing that we are talking about is having Federal backstop authority.

That is a thing that currently exists for natural gas pipelines. But we don't have it in the same way for transmission lines.

I don't think there is objection to the existing backstop authority associated with natural gas pipelines from this committee, at least not that I am aware of. So that should be a proposal, consistent with an approach with another technology where it has support for us to be able to move forward.

Senator Carper. That is good. Let me ask both majority staff and minority staff to write that one down. In the Navy, when we used to do training for airplanes and ships and everything, or we would have somebody who was a lecturer who was training our enlisted officers, they would reach a point where it was like a really important point, if it was going to show up on a test later on, we would say whoever was lecturing would stomp their foot. And that might be a foot stomper. So I hope we will not forget that one.

This is my favorite part of the hearing. I get to make a

unanimous consent request sometimes when nobody is here except the folks in the audience and me, and ask unanimous consent that something happen, and there is nobody to object. So it just happens. Today, Senator Whitehouse can object if he wishes. I hope he won't.

My unanimous consent would be this. There are a number of permitting bills that have been released, and I too intend to release a bill soon, a draft proposal very soon. It is important that we get this right. So I would like to ask unanimous consent to request that members of the public share feedback on these permitting bills with this committee. There are several of them, and one that we will be unveiling very soon. We welcome comments from the public on what they like, what they don't like, and maybe they have some good ideas.

Without objection, so ordered.

[The referenced information follows:]

Ms. Mallory. Senator, can I go back to your last question, please?

Senator Carper. To my unanimous consent request?

Ms. Mallory. I don't object to your unanimous consent request. That is wonderful.

The one thing I wanted to raise that I was not asked but I think is important is that one of the things that we at CEQ are working on is the completion of the rulemaking process that we started under, the President asked us to look at whether we needed to make changes to the previous Administration's rules. We said, yes, we thought we did, and we were going to do it in two phases. We did phase one, we are working on phase two and hoping to get phase two out very soon.

But it also builds on many of the themes that we have heard here today. So when that proposal comes out, hopefully in a matter of weeks, and people can look to that and see how it fits into our efforts for greater efficiency, our efforts to make sure that environmental justice communities are integrated into our process and our efforts to ensure that climate change is addressed appropriately.

Senator Carper. Thank you for adding that.

Ms. Harada, I don't think we gave you an opportunity to ask a question of yourself and then answer it.

Ms. Harada. Yes, sir, thank you again for the opportunity.

There are a couple of things that would certainly be absolutely helpful in enhancing the overall permitting efficiency. The first thing, and I know we have discussed this in the hearing, is around ensuring that there are also State and local government alignment and capabilities as well. They serve just as important a role in getting these infrastructure projects permitted.

Senator Carper. As a recovering governor, I approve of this message.

Ms. Harada. Thank you very much, sir. Secondly, investing in the fundamental capabilities for enabling permitting. I know that Jason has touched on investing in the data management processes, ensuring that we have the permitting workforce that we need and the experts appropriately in place to be able to do that.

Last but not least, providing some additional clarity to those agencies to be able to leverage some of the categorical exclusions and other methods that provide for efficiency would be super helpful.

Senator Carper. Good. That is very helpful. Thank you for that.

I have a follow-up question, Mr. Miller, for you, that I would like to ask. We will see if you can take a shot at it.

We hear a lot about how the courts are slowing down

projects. We heard a little bit of that here in this hearing today. I have seen some legislative proposals that remove judicial review, Federal permits altogether. What are the real-world implications of eliminating judicial review for environmental reviews and permits? In your view, is there a better way to facilitate timely judicial reviews?

Mr. Miller. Chairman, thank you for that question, and for raising a topic which has been touched on lightly here today, but I know is a part of proposals, it is part of various statutes, including the FAST-41 statute in terms of time limits associated with judicial review.

Having a mechanism to resolve conflicts when there is fundamental disagreement is important. It is important that we are able to identify those issues on the front end. One of the reasons that community engagement is so critical is so that we are not creating an incentive for conflict later in the process.

But we have to have a mechanism to resolve conflict. That mechanism should not drag out, because we need to ultimately resolve conflict or we just have brewing conflict.

Senator Carper. Good. Thank you for that.

A question, I know you invited us to call you Brenda, I will stick with Ms. Mallory for now. The President recently released an executive order on environmental justice, as you know, which directs agencies to consider the cumulative effects

of pollution and other burdens like climate change in their actions.

Would you speak to us for a minute or two about why it is important to consider cumulative impacts as part of environmental reviews?

Ms. Mallory. Yes, Senator, thank you so much for that question.

Yes, and I would just say that for all of the work that this Administration is doing on environmental justice, one of the key factors that we are focused on is ensuring that all communities get the benefit of clean air, clean water, and a safe community. That is the premise on which we are operating.

The executive order really builds on what the National Environmental Policy Act has required for all but the time that the previous Administration was in effect, which is direct, indirect, and cumulative effects. That is what the analysis requires.

So what we are saying for environmental justice communities in particular is that if you are building, whatever the project may be, if you hone in only on that project and not think about the context in which it is being set, then you are not really fully considering what the impacts are that the people who live there are experiencing.

So that is what cumulative impact is about. It says you

have to not only look at the item that is causing the action, but what context is that being set in from an environmental as well as a human health perspective. So that is what we are trying to ensure, that communities that have experienced under-investment and that have suffered from legacy pollution actually have those issues addressed.

Senator Carper. All right, thank you.

I am going to give a short closing statement. I will start off by saying, thanks so much, thanks for what you do with your lives and thank you for your willingness to work with us.

I am not sure who said this, I used to think it was my dad, but I have heard it a lot in my life, the hardest things to do are sometimes the things most worth doing. I think what we are trying to do here is not easy, in fact, it is pretty hard.

This committee is pretty good at doing the hard things, and we are proud of that. Our ability to help write major portions of the Bipartisan Infrastructure Bill that we talked about earlier, the work we have done in the last Congress and again in this Congress on recycling legislation, we are working now, Senator Capito and her staff and my staff, on perma-chemicals, PFAS and PFOA and all those.

None of these are easy. But they sure are important. And we find one of the best ways to make progress is to do it together. I like to say bipartisan solutions are lasting

solutions. Senator Capito and I and our colleagues are pretty good at that, with the help of our staffs.

Anything that you all would like to say, each of you, just briefly, maybe a minute, in terms of helping us get to those bipartisan solutions? A lot of times people focus on the things we want to fight about, disagree about, but something that might be helpful as we go forward to get us to closure and something that we can embrace through the legislation, the legislation can embrace as can the environmental community, the States, tribes. Maybe just one thing you could say, as you get ready to take your pens out and write this legislation, don't forget this.

Ms. Harada. Thank you, Senator, for the question.

Senator Carper. You can repeat. Repetition is not bad.

Ms. Harada. I think we have done a reasonable thorough job of covering the major elements of any such proposed legislation and we very much look forward to rolling up our sleeves and working with you. Please don't hesitate to call us. We are absolutely happy to jump in on this.

Senator Carper. Great. Thanks so much. Mr. Miller?

Mr. Miller. Thank you. Two things, just reiterating what you were saying, making sure that we are moving forward on bipartisan reforms is critical.

Too, one small thing that we haven't touched on extensively here but part of what we have been trying to do in all these

things is take an enterprise approach to permitting, rather than doing the same thing 27 different times on 27 different projects. One of the ways in which we can do that is expansion of the use of programmatic reviews.

To the extent we can do that administratively, we are seeking opportunities to do so. To the extent additional legislation is needed to do it in drafting agencies, that is an area that I think is fruitful.

Senator Carper. Thank you. Ms. Mallory?

Ms. Mallory. Thank you. I feel like I have said everything that is most important to say. The only thing I would add is just using as an anchor as you are thinking through the ways in which we can improve the permitting system, what the impact is going to be on communities and people, I think that will help us to lead to a result that we will all be proud of. Thank you.

Senator Carper. I heard a great quote from Teddy Roosevelt, I was surprised to find out it was Teddy Roosevelt who said these words: "People don't care how much you know until they know how much you care." That is not a thing you expect of Teddy Roosevelt, the Rough Rider. He was also a great environmentalist. People don't care how much you know until they know how much you care, which sort of speaks to the community involvement piece of all of this.

In closing, I want to again thank each of you for taking time to prepare for today, to present your testimony and to also respond to our questions and give us some good advice as we go forward, looking for the bipartisan solution I think that we all want.

We appreciate your thoughtful discussion of opportunities to improve the Federal environmental review and permitting process in a way that is important to our transition to a clean energy economy, as well as your identification of safeguards that must not be compromised.

As I said in my opening statement, it is essential that we address the climate crisis by rapidly transitioning to a clean energy economy. That means we must build clean energy projects and infrastructure far more swiftly than we have been doing to date.

We must also accomplish this while ensuring that historically disadvantaged and underserved communities have a real voice in these decisions. Your testimony today provides us with valuable guidance as we move forward in this legislative process.

Before we adjourn, a little bit of housekeeping. Senators will be allowed to submit questions for the record through the close of business on Wednesday, May 31st of this year. We will compile those questions, send them to each of you, and ask that

you reply to them by Wednesday, June 14th, 2023.

I mentioned earlier, Senator Capito and I are both natives of West Virginia, so is Joe Manchin. A bunch of our neighbors when I was a little boy, my sister and I were little kids, a bunch of our neighbors worked in coal mines. My dad came out of Shady Springs High School at the age of 15 or 16, worked in a coal mine for a while, decided he didn't want to do that, and ended up going off to fight in a war and come home.

There are a lot of folks in West Virginia, and frankly a bunch of other States, that are fearful of what we are doing. They are fearful because they are afraid they are not going to have jobs, or they are not going to have good jobs. I always like to put myself in other people's shoes, Golden Rule, treat other people the way they want to be treated, and make sure the people who might be displaced because we are going away from fossil fuels to clean energy.

We can't ignore the concerns of those people. We have to take them seriously and treat them the way we want to be treated. I know Senator Capito feels that very deeply, as I think all of us do.

We need to continue to remind folks that we are not just going to walk away and say, well, to hell with you, we are just going to turn the page and generate all of our electricity from wind and solar and so forth. We have to make sure the people

who are disadvantageded and may be suffering because of that transition, that we are going to help them too. I think we have a moral obligation to do that.

With that, I think it is a wrap. We thank you again very, very much. We are adjourned.

[Whereupon, at 12:26 p.m., the hearing was adjourned.]