

September 12, 2022

United States Senate
Washington, DC 20510

Dear Senator,

On behalf of the undersigned organizations, thank you for your work to successfully advance the Inflation Reduction Act (IRA), the most important climate legislation to ever pass Congress. We recognize that it was a challenging balancing act, requiring intense negotiation and compromise, but importantly, the IRA will help reduce our climate emissions by roughly 40% by 2030 and greatly reduce other pollution from fossil fuels by speeding our transition to a clean energy economy. At the same time, we write to oppose leaked legislation with an American Petroleum Institute (API) watermark that would limit environmental review, community input, and judicial oversight and redress for major infrastructure projects and government actions. We also oppose the rumored agreement to approve the Mountain Valley Pipeline, a more than 300 mile fracked methane gas pipeline that would have the negative climate equivalent of 23 coal-fired power plants, pose unacceptable risks to communities, especially low-income, elderly communities that live along the pipeline's path, as well as Indigenous and Black communities that would be impacted by the pipeline's proposed extension, and threaten water quality.

This permitting rollback proposal would prioritize fossil fuel interests over the environment and the health of impacted communities, which are disproportionately communities of color and low wealth communities. It would require the President to create and keep a prioritized list of no fewer than 10 fossil fuel-related projects – locking in development of polluting projects. The bill would also reduce requirements under the National Environmental Policy Act (NEPA) to consider and review alternatives that might be better for the environment and public health and would allow for insufficient state reviews to substitute for the federal process. Agencies would be pressed to approve a broader range of project types with very little or no community input or environmental review and to evaluate projects without complete information. The bill would also allow pipeline and other fossil fuel project sponsors to veto extensions of comment periods, thereby further limiting public input. And it would tip the judicial scales in favor of fossil fuel projects by making it more challenging for citizens to seek legal redress, decreasing the statute of limitations for federal actions from 6 years to 5 months, and would scramble which judges or panels of judges received related cases and appeals- slowing down the judicial process and tying up further resources in courts.

Independent experts agree that the NEPA process is not to blame for project delays. The Congressional Research Service (CRS) pointed to lack of funding, changes in project design, shifting local or state priorities, local opposition, or project complexity as chief reasons for delay. Meanwhile, the project permitting landscape has dramatically changed over the past year. Passage of the Infrastructure Investment and Jobs Act (IIJA) tilted the playing field in favor of special interests with the major expansion, broadening, and permanent authorization of a process to short circuit environmental review and community input on energy, mining, and infrastructure projects of more

than \$200 million. The IRA has more than \$1 billion in funding to ensure those critically relevant federal agencies have adequate staffing and resources for thorough and efficient environmental review and public engagement in the NEPA process. We strongly believe this will help complete more beneficial, climate beneficial projects with community buy-in, and potentially more quickly.

To build on the success of adequate funding for NEPA review and public engagement in the project evaluation process, we would instead encourage Congress to advance the Environmental Justice for All Act. Its approach to permitting would help ensure fulsome public engagement early in the development process and clarify how agencies must evaluate potential cumulative health and climate impacts. Clarity and certainty of direction will make for more consistent reviews, and may help community members make better informed suggestions for project improvements, contributing to less community opposition. Numerous studies point to robust public engagement leading to reduced opposition and delay, and fewer harms and more benefits for nearby communities – a win for both the people in the communities and the project sponsors. The EJ for All Act was developed over more than two years with robust community consultation and feedback. This legislation has had a number of hearings, was successfully marked up, and pieces of the bill have passed the House. Congress should pass the entire bill and send it to President Biden for his signature.

Sincerely,

Gene Karpinski
President
League of Conservation Voters

Lori Lodes
Executive Director
Climate Power

Manish Bapna
President & CEO
Natural Resources Defense Council