



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

March 20, 2025

Submitted via email: permitting@epw.senate.gov

The Honorable Shelley Moore Capito and Sheldon Whitehouse
U.S. Senate Environment and Public Works Committee (EPW)
410 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Senate EPW Hearing on Improving the Federal Environmental Review and Permitting Process Comments for the Record

Dear Chair Moore Capito, Ranking Member Whitehouse, and Members of the Committee:

On behalf of the Resource Development Council for Alaska (RDC), thank you for your recent hearing on the “Improving the Federal Environmental Review and Permitting Process.” We appreciate your leadership on this important issue. Please consider these comments for reforms needed for federal environmental reviews and permitting.

RDC is a statewide, non-profit trade association founded in 1975. Our membership is comprised of individuals and companies from Alaska’s fishing, tourism, forestry, mining, and oil and gas industries and includes Alaska Native corporations, local communities, organized labor, and industry support firms. Our purpose is to encourage a strong, diversified private sector in Alaska and expand the state’s economic base through the responsible development of our natural resources. RDC’s members from the fishing, tourism, forestry, mining, and oil and gas industries are detrimentally impacted by these delays. Improving the federal permitting process is of the utmost importance to our membership, the State of Alaska, and the economic and national security of the United States.

The current federal permitting process is broken and acts as a significant barrier to responsible resource development in Alaska. Currently, permitting energy projects involves numerous federal, state and local government agencies, each requiring different conditions. Permitting at the federal level takes years, sometimes even decades, to work through the permitting process. For example, for mining development projects, the average permitting timeframe is now 29 years

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according to the National Mining Association. Then, once permitted, legal challenges create further delays and too many legal challenges to responsible development projects are too easily filed to create further delay by nongovernmental entities with no relationship to the area or region of proposed development. These hurdles to permitting result in additional costs, delays, and reduce investment in responsible resource development in a state and a country that adheres to some of the highest environmental standards in the world.

As the Committee undertakes the work of proposing reforms to the many federal permitting processes, we offer the following for your consideration:

General Permitting Reform and Litigation Reform:

- Set clear, reasonable, and enforceable guidelines for the scope and timeline of National Environmental Policy Act (NEPA) reviews.
- Limit the size of Environmental Impact Statements to no more than 300 pages.
- Limit the timeframe for litigation of an EIS to 90 days from the issuance of the Final EIS.
- Limit the timeframe for further agency review following a court remand or other settlement arrangement to 180 days and limit the scope of the review to the specific issues identified in the remand or settlement.
- Mandate the use of a Joint Record of Decision when multiple agencies are using an EIS as the basis for a decision on issuing different Federal permits. All agencies should agree on a common timeline and scope for the review ahead of time and should be accountable to the lead agency for meeting all requirements of the process and timeline.
- All permits should be issued within 30 days of the Record of Decision.
- Set clear and enforceable guidelines and timelines for Tribal Consultation that are consistent with the timeline for completion of the NEPA review and issuance of permits.
- Support language to allow for more state assumption (primacy) of federal permitting programs.

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National Historic Preservation Act of 1966 (NPA) Section 106 Review Process (Advisory Council on Historic Preservation and all implementing agencies):

- The process has been significantly expanded beyond its original scope and intent. Examples of this include:
 - The misuse of Traditional Cultural Landscape designations to block any form of development in large areas with little, if any, physical evidence or substantive oral records to provide support for the designations.
 - The expansion of the Area of Potential Effect (APE) for completing project evaluations which can dramatically increase the extent and complexity of these reviews without demonstrable benefit to the process.
- Set requirements for clear, well defined, and justifiable evidence to support the designation of Traditional Cultural Landscape and set limits on the physical extent of any designations.
- Limit the APE to the physical footprint impacted by a project with some reasonable buffer to account for physical impacts outside the immediate footprint. Just because physical activity can be seen from a hilltop miles away does not mean that the APE should extend for miles beyond a project boundary.
- Set clear and enforceable requirements and timelines for the review process that are consistent with the timelines for the primary permit and make the implementing agencies accountable for meeting the timelines.

Clean Water Act Section 404:

- Clearly define Waters of the United States in accordance with the original intent of the Act and the Supreme Court's Sackett Decision.
- Provide clear guidance to the USACE and EPA on the implementation of the definition in Alaska, which has been disproportionately impacted by WOTUS due the broad prevalence of so-called jurisdictional wetlands in the State.

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- Provide clear guidance for when projects are required to mitigate for impacts to WOTUS in Alaska. Alaska has very few impacted WOTUS relative to the rest of the country and mitigation should not automatically be required for all projects. Make allowance for the use of “out of watershed” and “out of kind” mitigation when there are no impacted wetlands available in watershed for restoration. Consider an Alaska-specific provision similar to a proposal introduced by the late U.S. Senator Ted Stevens (Alaska) entitled the *Alaska Wetlands Conservation Credit Procedures Act of 1994*, which recognizes Alaska’s unique qualities regarding wetlands (<https://www.congress.gov/bill/104th-congress/senate-bill/49/text>).
- Remove EPA’s ability to preemptively and retroactively veto 404 permits. Limit EPA’s timeframe to veto a 404 permit to the timeframe from the issuance of the Final EIS to the issuance of a Record of Decision.
- Provide federal funding and technical assistance to the states to assume administration of the CWA Section 404 program within Alaska to allow quicker permitting decisions.

Endangered Species Act (ESA) and Section 7 Consultations:

- Combine the roles and authorities of NOAA Fisheries and US Fish and Wildlife Service with respect to the designation, management and protection of ESA listed species and ESA Section 7 Consultations under the USFWS.
- Currently each agency separately designates, manages, and studies ESA listed species and issues separate Biological Opinions and related authorizations resulting in massive and unneeded duplication of work. Listed species are often found in the same areas/environments and are often similarly impacted (for example sea otters (USFWS) and sea lions (NOAA Fisheries). Consolidation of the work under USFWS would reduce the level of effort required by both the applicant and the agencies without impacting protection for listed species and result in more clear and consistent mitigation measures.
- Provide clear and enforceable guidelines and timelines for the issuance of BO’s that are consistent with the timelines for the primary permit. In Alaska there is a history of Section 7 consultations being unjustifiably broad and detailed in scope and being used to delay the issuance of permits for projects.

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We ask the Committee to consider these comments as they develop legislation to reform the federal environmental review and permitting process. If done correctly, could have lasting, positive effects on our national security, domestic energy independence, and availability of affordable energy for all American people.

We look forward to future meetings of the Committee on this issue. We are available to answer questions and/or provide additional assistance to the Committee at your request. If you or your staff would like to follow up on this letter, please contact me at Leila@akrdc.org or my staff member, Connor Hajdukovich, at Connor@akrdc.org.

Thank you for your consideration.

Yours resourcefully,

Leila Kimbrell
Executive Director

CC: U.S. Senator Dan Sullivan (R-AK)
U.S. Senator Lisa Murkowski (R-AK)
Congressman Nick Begich (R-AK)
Alaska Governor Mike Dunleavy
Alaska Department of Natural Resources Commissioner John Boyle
Alaska Department of Environmental Conservation Acting Commissioner Christina Carpenter
EPA Region 10 Administrator Emma Pokon



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