
March 7, 2024

The Honorable Charles Schumer
Majority Leader
United States Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Mike Johnson
Speaker
House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Hakeem Jeffries
Minority Leader
House of Representatives
H-204, The Capitol
Washington, DC 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and Minority Leader Jeffries:

Western Governors write to express our support for measures in the bipartisan and bicameral Building Chips in America Act (S. 2228, H.R. 4549) that would streamline the environmental review process while protecting environmental resources, ensuring public participation, and facilitating timely decision making. Streamlining the permitting process for projects receiving funding under the CHIPS and Science Act of 2022 (CHIPS Act, Pub. L. 117-167) will help to ensure that federal semiconductor manufacturing investments result in real benefits to our states and enhance our national security without needless delay.

In Western Governors' Association (WGA) Policy Resolution 2023-10, Infrastructure Permitting (attached), Western Governors urge Congress to streamline the review of critical infrastructure projects, where appropriate, to achieve the goals of federal legislation that invests in improving infrastructure. This certainly applies to the limited scope of CHIPS Act projects that would be deemed non-major federal actions by the legislation. As noted in a bipartisan letter signed by 120 lawmakers in support of the legislation, these include projects that have already received the necessary state and federal environmental permits, simply expand existing facilities, or are projects for which federal funding comprises less than ten percent of the total investment.

The legislation also establishes the existing categorical exclusions that can be applied to CHIPS Act projects. Western Governors have urged federal agencies to fully utilize existing mechanisms to streamline the environmental review process, such as any available categorical exclusions, where appropriate, while ensuring that robust consideration of environmental factors remains integral to the process.

While the Building Chips in America Act offers improvements to the permitting process for specific projects, we would like to emphasize that Congress should continue to work on comprehensive reforms that increase transparency, accessibility, and agency accountability for all projects. This is critical to increasing the pace and scale of land management projects, including those for wildfire mitigation, ecosystem resilience, habitat restoration, and invasive species management, addressing

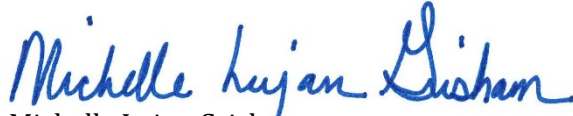
The Honorable Charles Schumer
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infrastructure needs, and decreasing our reliance on foreign sources of critical minerals. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Mark Gordon". The signature is fluid and cursive, with the first name being more prominent.

Mark Gordon
Governor of Wyoming
Chair, WGA

A handwritten signature in blue ink that reads "Michelle Lujan Grisham". The signature is fluid and cursive, with the last name being more prominent.

Michelle Lujan Grisham
Governor of New Mexico
Vice Chair, WGA

Attachment



Policy Resolution 2023-10 Infrastructure Permitting

A. BACKGROUND

Western states and territories face a host of challenges in balancing the protection of human health and the environment with the many needs of growing populations. Robust permitting processes help achieve that balance by ensuring environmental protection and public participation. Current permitting processes governing land management activities and infrastructure development can negatively affect the pace and scale of critically important projects: to provide wildfire mitigation and habitat improvements, to ensure safe roads and bridges, to build drinking water and wastewater capacity, to improve energy systems including transmission and distribution, to construct and place broadband and other telecommunications infrastructure, and to address supply chain shortages. These review processes can be improved and streamlined while still providing meaningful opportunities for public input and promoting a safe and healthy environment for our citizens.

B. GOVERNORS' POLICY STATEMENT

1. A clear, consistent, focused, and effective environmental review process is essential to protect environmental resources, ensure public participation, and facilitate timely decision making in the design, financing and execution of critical infrastructure and land management projects. Western Governors urge Congress and the Administration to streamline the review of critical infrastructure projects and land management activities, where appropriate, to achieve the goals of federal legislation that invests in improving infrastructure and enhancing ecosystem function.
2. The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental considerations into their decision-making processes, which have been defined through regulations and guidance issued by the Council on Environmental Quality (CEQ). Federal agencies' NEPA review processes should seek to comply with CEQ requirements as efficiently and effectively as possible. Litigation risk should not cause agencies to take an overly cautious approach to the permitting process. Instead, federal agencies should fully utilize existing mechanisms to streamline the environmental review process, such as any available categorical exclusions, where appropriate, while ensuring that robust consideration of environmental factors remains integral to the process.
3. CEQ should revise its guidance to direct agencies to consider only those impacts that are reasonably foreseeable and have a proximate relationship to the proposed action and also include robust socioeconomic analysis.
4. Western Governors believe Congress and the Administration should take steps to mitigate the risk of excessive project delays associated with legal challenges. Judicial review of federal decisions can significantly delay project implementation and can cause significant cost increases due to the rising cost of materials and labor. Agencies should initiate tribal, state, and county consultation in the earliest stages of the review process.

5. Federal permitting policies and efforts to streamline permitting processes should be flexible enough to meet the diverse needs of local communities. While significant investment in energy generation and transmission, transportation infrastructure, and land and water management is needed across the West, the specific types of projects pursued within each municipality, state, territory and tribe will differ based on factors including geography, geology, economy, climate, as well as the differing policy goals of each jurisdiction. Creating a robust federal permitting framework that is accommodating of the diverse natural and political landscape of the West is essential for the success of the region as a whole.
6. Western Governors are concerned that lengthy reviews in federal permitting processes are impeding states' ability to invest federal funding that would provide environmental or conservation benefits and for which individual projects are typically similar in scope, such as construction of wildlife crossings on highways or fiber for wildfire monitoring cameras. CEQ should consider how best to streamline review processes for similar projects delivering an environmental or conservation outcome to ensure that federal funds are invested effectively.
7. The Administration and Congress, in continuing to evaluate permitting processes, should consider how to make these processes more accessible to underserved or historically disadvantaged communities, small and rural communities, and recipients of smaller awards to ensure that it is cost-effective for these groups to access federal funding. For example, small communities often choose not to apply for federal funding for transportation and infrastructure improvements because of the complexity and cost of the federal permitting process as well as the cost of compliance with federal requirements.
8. Western Governors recognize the value of interagency reviews, such as reviews under Section 309 of the Clean Air Act, which authorizes the Environmental Protection Agency (EPA) to review all federal actions affecting the quality of the environment, but urge Congress and federal agencies to evaluate and address steps that may cause undue delays in permitting, including by improving coordination of federal agency activities.
9. Western Governors recognize the importance of highly qualified staff in local agency field offices that evaluate and process permitting applications. Governors are concerned by shortages of realty specialists in local field offices, especially as many staff responsible for permitting at these agencies are becoming eligible for retirement. Significant federal investment in infrastructure and land management projects increases the workload on agency staff, exacerbating existing shortages. It also increases the need for technical assistance for local communities and states applying to use federal funds. Federal land management agencies that receive funding for staffing to implement federal investments should prioritize hiring qualified permitting staff in local field offices to ensure permits are processed in a timely manner and technical assistance needs are met.
10. The Federal Infrastructure Permitting Dashboard operated by the Federal Permitting Improvement Steering Council (FPISC) adds transparency, accessibility, and agency accountability to the permitting process. The Administration and Congress should continue to empower and support the FPISC in its efforts to improve the federal permitting process. However, the FPISC, which is limited to select projects that qualify for inclusion, is only a temporary solution while comprehensive permitting reforms are developed and implemented. Fundamentally, Congress and the Administration must pursue

comprehensive reforms that increase transparency, accessibility, and agency accountability for all projects.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2026. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.