For the third time this year, Republicans in Congress seem to be angling for a government shutdown. Not only will there be disagreements on funding levels, but the House will insist on attaching riders to appropriations bills preventing agencies from doing various things. I realize that this may come as a shock, but the House GOP, which has already declared climate science to be a hoax, will attempt to forbid EPA from using any funds to promulgate carbon dioxide regulations. President Obama has threatened a veto.

The problem with this scenario is that it plays into the hands of the Republicans. If Congress passes a bill with a rider and the President vetoes, great: then EPA has **no** funding and must shut down completely. Just what they want! So the task for those who support EPA's mission is to find a mechanism whereby an agency shutdown could inflict political damage on Republican constituencies, thus making the GOP see the need for a compromise.

Several months ago, I suggested that if EPA shuts down, then it couldn't issue any Title V permits under the Clean Air Act or NPDES permits under the Clean Water Act, and that would put business in a position of really wanting to keep the agency open. But then Holly, who has forgotten more about EPA than I am ever going to know, gently reminded me that these two system are currently administered by the states: an EPA shutdown would not affect states' ability to issue permits. So I am still looking for the poison pill.

Well, here's another try: the 404 permit under the Clean Water Act, required in order to discharge any dredged of fill material into the waters of the United States (and thus required to fill any wetlands). This permit, of course, is not given by EPA, but rather by the U.S. Army Corps of Engineers. But EPA has authority here: it comments on applications, and most importantly, under Section 404(c) of the Clean Water Act, it can veto proposed permits. EPA has used this authority very sparingly: the Corps has granted upwards of 80,000 permits each year, and since 1972, EPA has issued *twelve* vetoes. (One might argue that EPA has vetoed too sparingly, but that's another question).

Nice Little Wetland You Have Here:
Too Bad If Something Were to
Happen To It...

So what if, the day before EPA's budget authority is to expire, the Agency issued

blanket vetoes of all pending 404 permit applications? Or how about those permit applications from firms of particular importance in Republican congressional districts? EPA materials suggest that then there would be a public comment period, and the relevant regional administrator would then have to make a determination as to whether to let the permit go ahead. But of course if the budget impasse is not resolved by then, the regional administrator couldn't make that determination, but she wouldn't have the authority to do anything.

It's not clear to me whether this strategy could work, or whether there are circumstances in which lack of responsiveness by EPA would give the Corps the authority to just move ahead. But it worth exploring, not for its substantive value, but rather for its procedural worth in what I have called the Age of Dysfunction.

Obviously, this is no way to run a railroad. But that's what the ~~Tea~~ Republican Party wants nowadays: it is a matter of constant hostage-taking and threats to destroy the basic working of the government. At some point, someone will have to communicate to the GOP that there are costs to plutocratic nihilism.