

I'm very sympathetic to arguments that we're unable to build important infrastructure, whether housing or transmission, because we have too much red tape. There's a real temptation, however, to throw out the environmental baby with the procedural bathwater. It's hard not to suspect that sometimes that's the point and permit reform is just an effort to avoid considering environmental harms. Be that as it may, it's easy to embrace restrictions on environmental reviews without giving enough thought to what we may be losing – and how we might be able to get the best of both worlds.

As Eric Biber has discussed in many of his posts, many proposed permit reforms are not well-designed to achieve their ends. A more fundamental problem is that we're not always sure we're addressing the right part of the problem. There's a general assumption that NEPA reviews are a big source of delays. The empirical evidence to support that claim isn't clear. The fact that the reviews take a long time may be a function of the need to update them whenever there's a design change and the lack of any reason to release them before all the other stages of the process are complete. NEPA may be a major cause of delays for some subset of projects, but reforms might need to be more targeted.

More importantly, although we may have too much process, we shouldn't lose track of the reasons for that process, which are to ensure that decisions account for environmental harms and give local communities some voice before decisions are made. If we want to streamline permitting but continue to care about those things, we need to think carefully about providing alternative ways to achieve them.

It's going to take a lot of thought to design alternatives to full consideration of environmental issues in the permit process itself. Here are some ideas to consider.

Some of these can be implemented within NEPA itself, such as using programmatic impact statement to discuss cross-cutting issues and help identify good alternatives and environmentally preferred sites before any specific project is on the table. We could also encourage more data collection in advance at potential development sites, so the environmental review of a specific project can get off to a quick start. We might also consider greater use of performance bonds to ensure that there will be funding to mitigate any environmental issues that arise during the construction or operation of the project.

The basic point is that permit reform involves some real trade-offs. It's not going to be all win-win. That's something we need to think about in designing permit reforms and finding less burdensome ways to manage the risks of environmental harm. We

shouldn't have to go back to 1950s indifference to the environment to get things built.