

# ENVIRONMENTAL PERMITTING REFORM

## Support Reforms that Merge the NEPA Review and CWA 404 Process, Streamline Permitting, and Reform Citizen Suits

### Action Needed:

Tell Congress and the White House to Reform the Environmental Permitting Process.

#### Background:

- **The Current Permitting System is Staggeringly Inefficient.** The average time to complete one Environmental Impact Statement (EIS), under the National Environmental Policy Act (NEPA) process, is five years (almost 1,700 days) and costs \$6.6 million according to a National Association of Environmental Professionals review. An individual Clean Water Act Section 404 permit applicant spends an average of 788 days and \$271,596 to obtain coverage, according to the Supreme Court in the *Rapanos v. United States* decision. A six- to seven-year delay in starting construction on public projects – as a result of these lengthy permitting processes – costs the nation more than \$3.7 trillion in lost employment and economic gain, inefficiency, and needless pollution according to the *Common Good* report of 2015.

#### AGC Message:

- **Performing Sequential and Often Duplicative Environmental Reviews After the NEPA Record of Decision Results in Massive Schedule, Budget, and Legal Hurdles.** Project proponents are being forced to repeat analyses and studies; mitigation and management planning; as well as interrelated “authorizations” (i.e., certifications, consultations, consistency determinations, etc.) – all before they can submit their permit applications and receive the necessary approvals to proceed with construction.
- **Merge the NEPA Review Process and the Clean Water Act Section 404 Permitting Process.** The NEPA review and the regulatory permitting processes must be coordinated and advanced concurrently, not sequentially. There must be timelines and deadlines for completing the environmental approvals needed for infrastructure work. Specifically, AGC supports a nationwide merger of the NEPA and CWA 404 permitting processes, with the U.S. Army Corps of Engineers issuing a 404 permit at the end of the NEPA review based on the information generated by NEPA process. Data show these processes take the longest, are the costliest, and are subject to the most disagreements. To reduce duplication without reducing environmental protection, the monitoring, mitigation and other environmental planning work performed during the NEPA review must satisfy federal environmental permitting requirements (unless there is a material change in the project).
- **A Reasonable and Measured Approach to Citizen Suit Reform Could Prevent Misuse of Environmental Laws.** Legal challenges to the environmental approval process have caused the agencies to require permitting to be “litigation proof.” Congress should further shorten and standardize the statute of limitations for challenges to final NEPA decisions or claims seeking judicial review of an environmental permit, license or approval issued by a federal agency for an infrastructure project. Suits should also be limited to objective violations rather than subjective plans and legal fees should also be awarded if a project proponent prevails.