

Campaign urges Trump to shield energy projects from EPA vetoes

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A new coalition of mining and environmental groups is pushing President Donald Trump to issue an executive order that would make it harder for a future Democratic president to veto water permits already issued to major energy projects.

The campaign highlights concern that a future administration could weaponize certain authorities to kill fossil fuel projects as Trump has targeted renewable energy.

“The intent is what can be done administratively that would slow down a future administration from making a retroactive denial of a permit or yanking of a permit,” said Myron Ebell, who led Trump’s first EPA transition team and now serves as a senior adviser to the “Fix the EPA Veto Coalition.”

Specifically, [the group wants to put administrative guardrails](#) on Section 404(c) of the Clean Water Act, which empowers EPA to “veto” federal water permits issued by the Army Corps of Engineers.

It’s an authority EPA has used rarely, and only thrice since 1990. But one of those times, under the Obama administration, saw EPA [pull water permits](#) issued to a mountaintop removal coal mine in West Virginia four years after the permits were issued.

Litigation over the Mingo Logan mine ultimately led to the court’s ruling that EPA’s veto authority is written expansively and [can be used to withdraw permits retroactively](#).

Energy industries and developers have been wary of that power since they could pour millions into a project only to see the permits killed years later.

EPA has only used its veto power once since then — by the Biden administration over the Pebble mine in Alaska, where the first Trump administration had rejected issuing water permits in the first place. [The veto in that case](#) was not over permits that were issued but instead concluded that any large-scale mining project in the region would be unacceptable.

The Trump administration [continues to defend the Biden veto](#) in court, a rare alignment between Trump and environmental groups.

It’s not clear whether any future president would wield the veto authority in such a way, especially for multiple projects. But industry groups want to limit projects’ exposure.

“Alaska will be ground zero for an activist future president to use the 404c veto to shut down our energy and mining infrastructure,” Deantha Skibinski, executive director of the Alaska Miners Association, said in a statement. “Issuing an executive order and a formal EPA rulemaking are the right tools.”

Other groups involved so far include the American Exploration and Mining Association, the Western Energy Alliance and Better In Our Back Yard. Others may sign on in the future, Ebell said.

Rep. Pete Stauber (R-Minn.) has twice gotten legislation through the House that would restrict EPA’s veto authority to the time between a project seeking an application and the Army Corps issuing the permits — preventing the agency from coming back years later and yanking the permit.

But the legislation has never passed the Senate, where it would have to clear the filibuster hurdle, prompting the new campaign imploring Trump to act via executive order.

Stauber said in a statement he is “glad” to see the coalition seeking executive action.

“For too long, the Section 404(c) authority under the Clean Water Act has been exploited by Democrat administrations to delay or block essential infrastructure and resource development projects,” Stauber said. “As President Trump and the Republican-led Congress work to unleash American energy and mineral dominance, we must ensure this authority can no longer be weaponized to derail good projects for political purposes.”

The campaign argues major projects approved under Trump — including the Alaska natural gas pipeline, a contentious mining project in Minnesota, Arctic oil and gas operations, liquefied natural gas terminals, and critical mineral mines — are all at risk if EPA's authority isn't cabined now.

“This is not a solution, but it's an attempt to improve the situation, by getting the administration to put up some administrative ... impediments to future retroactive denials,” said Ebell.

Any executive order could be revoked by a future president with the swish of a pen, but Ebell's campaign argues there are steps that could be taken now to help protect permits issued now from retroactive vetoes.

The group says Trump should issue an order that, among other things, would limit vetoes "that conflict with Administration priorities" such as energy affordability or national security; set "clear, defined timelines" that prevent retroactive or preemptive vetoes; and protect projects that have already received a permit.

The Army Corps issues tens of thousands of permits annually, the vast majority of them without any controversy. But the risk of an environmental group making any given project a target gives investors pause, Ebell said.

“The idea you could go through all that and then get your permit yanked after you've gotten it, I think, is a huge obstacle to investing in America,” he said.

EPA and the White House did not comment.