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The Greens'
Dilemma:

Building Tomorrow's
Infrastructure Today



The Grand Bargain of Modern Environmental Law

- The Environmental Decade
 - NEPA, CAA, CWA, ESA, MMPA, RCRA, SDWA, CERCLA
- Elevation of environmental law as a controlling factor on infrastructure decisions in return for longer timelines and higher costs
- Good bargain

But with drawbacks...

- Property rights/development interests began to push back
- EJ interests increased demand for social justice and public participation as co-equals
- Infrastructure slow down and increase in costs

What happens when the Green New Deal meets the Old Green Laws?





Imagine trying to do this today: Build the



Intercoastal Waterway *plus*



The Interstate Highway System *plus*



The natural gas pipeline system *plus*



The Electricity Transmission Grid *plus...*



All at the same time, within 20 years

What do we know about infrastructure cost and timing?

- Costs have increased
- Much longer timelines
- NYU Marron Institute study of 11,000 kilometers of urban rail
 - NYC 20x more expensive per kilometer than in Seoul, 3x more than Sweden and Japan
- Focus on NEPA
 - Median time for EIS of 4.5 years, top quartile over 6 years
 - Little study of delays caused by litigation
 - Not just environmental laws!

No “Green Pass” for renewables

- Wind
 - Cape Wind, 2001-2017
 - County wind moratoria in Iowa ban wind development in 49-77% of state
- Solar
 - Clark County, NY, moratorium
- Transmission Lines
 - New England Clean Energy Connect
- Rare Earth Minerals
 - Rhyllite Ridge, lithium, Tiehm’s buckwheat

*We strongly support renewable energy projects,
just not here...*

While Sensible Solar supports combating climate change and expanding renewable energy resources in New York, we believe the solar project as currently proposed will adversely impact Copake's natural resources, farmland, wildlife and habitats, rural viewsheds, property values, and tourism- and agriculture-dependent economy.

Streamlining Toolkit

- Limiting coverage
 - Limiting jurisdiction
 - Limiting analysis
- Centralizing decisions
 - Improved coordination
 - Preemption
- Timelines
- Increasing information

- *Looks a lot like the Manchin Bill*

Streamlining Tool	Application	Example
Limiting coverage	Limits on jurisdiction	Waters of the United States rule
	Limits on analysis	Greater use of NEPA categorical exclusions
Centralizing decisions	Improved coordination	Single lead agency for historic preservation
	Preemption	FERC preemption authority for power lines
Establishing timelines	Set schedules	Trump NEPA revisions
Increasing information	Permitting Dashboard	FAST-41

Where Next for Permitting Reform?

- Status quo
- Tweaking
- Maximum preemption

- New Grand Bargain

Where Next for Permitting Reform?

- No good to fund a Green New Deal if you can't build it in a timely fashion
- The Greens' Dilemma
 - Conflicting goals of combatting climate change, enviro protection, and safeguarding vulnerable communities