

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jamie Raskin
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Thursday, March 26, 2026

Re: Judicial Review and Civil Justice Provisions in the “Protect American AI Act”

Dear Chairman Jordan and Ranking Member Raskin,

On behalf of the 138 undersigned organizations, we write to oppose [H.R. 8037](#), the “Protect American AI Act,” reportedly being marked up in the House Judiciary Committee this week. This legislation grants fossil fuel companies a free pass to recklessly pollute communities without risk of accountability through judicial review or civil action. Most egregiously, the bill would establish dangerous new precedents in the judicial system by prioritizing industries' access to the courts over all other matters our federal courts must address, including voting rights, civil liberties, and reproductive freedoms.

Attacks on Civil Action and Bedrock Environmental Laws

Section 3 of the act explicitly states that “civil actions relating to environmental review... shall not affect the validity of a permit, license, or approval issued for the data center or covered infrastructure.” This statute applies to our nation’s most critical bedrock environmental laws: the Clean Air Act, the Endangered Species Act, the Federal Water Pollution Act, the National Environmental Policy Act, and the Natural Gas Act.

For decades, these laws have been indispensable in ensuring that taxpayer dollars and public lands and resources are managed for the public interest and to uphold our national commitment to a healthy environment for current and future generations. The promise of the environmental review process is simple and is at the heart of democracy: the government will consider the environmental and health impacts of its decisions, disclose those impacts to those affected, and give the public a meaningful opportunity to weigh in on those decisions. If the government fails to meet these responsibilities, it will be subject to judicial review.

The environmental review process is particularly important for the buildout of data centers and other “covered infrastructure.” The semiconductor chips and cooling fluids used in data centers are known to contain PFAS, which can accumulate in the environment from water discharge. Air and noise pollution from facilities and their power generators threaten the well-being of communities and species, and the environment. Agencies need to carefully evaluate these and other concerns through judicial review and federal health and environmental laws, which this act will prevent.

Data Center Exemptions as a Vehicle for Rampant Pollution and Corruption

Alarming, the act applies to much more than just data centers. The act’s sweeping definition of “covered infrastructure” in Section 2 refers to *any* infrastructure primarily constructed, expanded, or operated to support data centers. As drafted, this bill could include some of the largest proposed natural gas power plants in history, such as the recently announced 9.2 gigawatt project in Ohio that could emit over 20 million tons of CO₂ every year.¹ Data center developments also utilize unconventional or “temporary” sources of power generation that lack modern pollution control technologies; recent developments are increasingly relying on behind-the-meter or on-site gas plants, backup diesel generators, and even turbines originally designed for aircrafts,² resulting in high emissions of particulate matter and other air pollutants harmful to human health. All of these types of facilities could be swept under the severe judicial review restrictions of this legislation.

By limiting judicial review to the umbrella of “covered infrastructure,” the act enables developers, polluting facilities, and power generators to go unchecked, no matter how unlawful, and to use data centers as a get-out-of-jail-free card. While communities and local governments are asking for greater transparency on the costs, energy, water usage, emissions, and public health impacts of data centers, this act gives a green light to rush projects through without guardrails.

Limiting Judicial Review

Judicial review is often the only tool available to hold agencies accountable when they fail to adequately consider the health, environmental, or economic impacts of their decisions. Sec. 4(a) of the act limits the jurisdiction of judicial review cases to the Circuit and Supreme Courts. This requirement would undermine the efficiency and equity within the federal judiciary. Under our current federal judiciary system, cases are assigned to federal district courts that have already decided a case related to the federal issue in question or have particular expertise on the facts

¹ [DOE unveils 10-gigawatt Ohio data center, gas-powered energy plan | AP News; Frequently Asked Questions - U.S. Energy Information Administration](#)

² [Bypassing the Grid: How Data Centers Are Building Their Own Power Plants](#)

involved in the case. Additionally, the lack of familiarity a particular appellate panel may have with a matter could cause delay in their ability to write an opinion and ultimately delay relief for the parties involved.

Prioritizing Permitting Cases Above All Others

The act would establish a dangerous precedent by requiring federal courts to prioritize cases relating to data centers and “covered infrastructure” over nearly every other matter. That means permitting cases would jump the line ahead of cases involving voting rights, civil liberties, human trafficking, reproductive freedoms, and environmental protection, among others. The text specifically directs courts to move “as soon as practicable,” after the initial filing date. This ignores the basic realities of the judicial process, including that our federal courts are already severely overburdened.

Additionally, federal courts already possess the inherent discretion and authority to expedite the consideration of any matter in the interest of justice; however, this legislation requires it, even if, in doing so, other critical matters before district courts are delayed. This requirement underscores the legislation's intent to ensure corporations can push data center and natural gas projects without the constraints of the rule of law.

Slashing Statute of Limitations

The Protect American AI Act limits any challenges related to the issuance of a permit, license, or approval issued by a data center or “covered infrastructure” to a mere 90 days after notice in the federal register (Section 4(d)). While Congress has the authority to set time limits, this change would effectively block much of the public’s access to the courts. Frontline communities, Tribal Nations, and local residents often do not even learn that federal approval has been granted within three months, much less gather resources or legal representation to challenge it. This arbitrarily short deadline is simply a back-door tactic to silence communities and shield unlawful decisions from scrutiny.

The 90-day limitation is particularly egregious in data center cases due to the severe lack of transparency in the permitting, construction, and operation of these facilities. Nondisclosure agreements are commonly used in the planning process, causing many communities not to realize a data center has been proposed until the site has already been approved.³ Additionally, the lack of federal reporting requirements means the true impact of data centers remains largely unknown, forcing communities to piece together research to determine potential impacts and build their case.

³ [How NDAs keep AI data center details hidden from Americans | NBC News](#)

Punitively shortening the statute of limitations while also forcing everyday Americans to the back of the judicial line, just so a few powerful industries can move faster, would not just be justice delayed; for too many, it would be justice denied.

Limitations on Remedies

The act will prevent courts from setting aside or vacating permits for “covered infrastructure” – even where the agency has violated the law and put neighboring communities in danger. In doing so, it would reduce environmental review to a paperwork exercise and limit judicial accountability to the point of meaninglessness. If agencies are only required to fix violations on paper, communities lose any meaningful protections from real and irreparable impacts to environmental and public health.

Lastly, while Section 4(e) of the act provides a savings clause, such clauses are subject to judicial interpretation, which may construe them restrictively to honor constitutional supremacy over pre-existing laws. Additionally, courts have found that such clauses protect only substantive rights and do not provide relief for procedural rights of action.

The Protect American AI Act enables data center operators to act with greater impunity and recklessly threaten public health, cause climate-harming pollution, deplete water resources, and undermine America's transition to clean energy. Our courts matter, and the public's ability to use them to enforce our nation's environmental, health, and public protection laws should not be denied so that polluters can rush a project without proper environmental safeguards for frontline and fenceline communities. We strongly oppose this attack on citizens' ability to enforce our nation's safeguards, and **we respectfully urge you to vote no** during Thursday's Committee markup.

Sincerely,

21st Century Memphis or Bust!

350 Seattle

Albion's Future

Alliance for Democracy

Alliance for the Great Lakes

Alliance for Tribal Clean Energy

Alliance of Nurses for Healthy Environments

Anacostia Riverkeeper

Asthma and Allergy Foundation of America
Black Appalachian Coalition
Basin and Range Watch
Bayou City Waterkeeper
Beyond Toxics
Black Warrior Riverkeeper
Bobbie Cook
Boston area youth organizing project
Buffalo Niagara Waterkeeper
California Communities Against Toxics
Camden Parent and Student Union
Cascadia Climate Action Now
Catawba Riverkeeper Foundation
Center for Biological Diversity
Center for Justice & Democracy
Center for Progressive Reform
Center For Transforming Communities
Choctawhatchee Riverkeeper
Clean Water Action
Climate Justice Alliance
Climate Reality Project: Memphis and Mid-South Region Chapter
Climate Reality Project: Nashville TN Chapter
Coastal Carolina Riverwatch
Conservation Law Foundation
Consumer Federation of America
Data & Society
Daughters Across the Diaspora
Deep South Center for Environmental Justice
Defenders of Wildlife
Detroit Federation of Teachers Retiree Chapter
Duwamish River Community Coalition
Earthjustice Action
Endangered Species Coalition
Environmental Law & Policy Center
Environmental Protection Network
Flow Water Advocates
Food & Water Watch
FOUR PAWS USA

Freshwater Future
Friends of the Earth Action
Friends of the Santa Cruz River
Great Salt Lake Waterkeeper
Green America
GreenLatinos
Hackensack Riverkeeper, Inc.
Haw River Assembly
Hoosier Environmental Council
Humboldt Waterkeeper
IDEA
Jessee Law Office
John Muir Project
Kentucky Resources Council
Kentucky Waterways Alliance
Kettle Range Conservation Group
League of Conservation Voters
Local Environmental Action Demanded Agency, Inc.
Lower Susquehanna Riverkeeper Association
Malone & Associates
Matanzas Riverkeeper
Memphis Community Against Pollution
Micah Six Eight Mission
Missouri Confluence Waterkeeper
Moms Clean Air Force
Mothers and Others for Clean Air
National Association of Voice Actors
Natural Resources Defense Council
New Jersey Environmental Justice Alliance
New Mexico Environmental Law Center
North Carolina Environmental Justice Network
Northeast Ohio Black Health Coalition
Northside Action for Justice
Nuclear Information and Resource Service
NY/NJ Baykeeper
Penobscot Bay Waterkeeper
People's Justice Council
Physicians for Social Responsibility Pennsylvania

Project Eleven Hundred
Protect Mason County WV
Protect Our Aquifer
Puget Soundkeeper
Public Citizen
Respect The Land Oklahoma
Respiratory Health Association
River Alliance of Wisconsin
Rogue Riverkeeper Program of Klamath-Siskiyou Wildlands Center
Russian Riverkeeper
Safe and Sound Coalition
San Antonio Bay Waterkeeper
San Diego Coastkeeper
Satilla Riverkeeper
Savannah Riverkeeper
Seneca Lake Guardian
Shadowland Farm
Sierra Club
Sierra Club of Oklahoma
Solar United Neighbors Action
Sound Rivers
South Seattle Climate Action Network
Sowing Justice
Spokane Riverkeeper
St. Johns Riverkeeper
TDJ Farm
TechTonic Justice
The Johnson City Coalition Against Bitcoin Mining
The Time Is Now Douglass Redevelopment Corporation
Third Act
Third Act Illinois
Third Act Maryland
Three Rivers Waterkeeper
Tualatin Riverkeepers
Tucker United
Tulsa Area Arkansas River Advocates
Twin Harbors Waterkeeper
Upper Room Bible College & Seminary

Volunteer Landscaping
Wabash Riverkeeper
Washington County Democratic Party
Waterkeeper Alliance
Waterkeepers Chesapeake
WE ACT for Environmental Justice
West Virginia Environmental Council
Western Environmental Law Center
Western Watersheds Project
Wild Virginia Inc.
WildEarth Guardians
Winyah Rivers Alliance
Women's International League for Peace and Freedom
WV Citizen Action Group
WV Rivers Coalition
Young, Gifted & Green