

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 CO<sub>2</sub> every year.<sup>1</sup> 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,<sup>2</sup> 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

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

<sup>2</sup> [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.<sup>3</sup> 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.

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<sup>3</sup> [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