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Winds of Change: Federal Court Halts DoD's Year-Long Freeze

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Overview

On August 6, 2026, Judge Karin J. Immergut of the U.S. District Court for the District of Oregon issued a landmark ruling in *Renewable Northwest v. Hegseth*, No. 3:26-cv-01092-IM, denying the Department of Defense's ("DoD") Motion to Dismiss and granting Plaintiffs' Motion for Preliminary Injunction. The ruling requires DoD to immediately resume processing wind energy project applications through the Military Aviation and Installation Assurance Siting Clearinghouse—ending a freeze that had stalled more than 100 land-based wind projects totaling over 29,000 MW of capacity across the country.

The Court's order provides nationwide relief and mandates that DoD submit status reports every 30 days addressing its progress in resuming review at each stage of the clearance process.

Background

DoD operates the Siting Clearinghouse to evaluate proposed energy projects—particularly wind turbines—for potential impacts on military operations. The regulatory framework establishes specific deadlines: a 75-day statutory deadline for preliminary review, a 30-day regulatory deadline for preliminary review, and a 90-day deadline for mitigation discussions.

Beginning in August 2025, DoD incrementally halted its review process: it stopped countersigning mitigation agreements, ceased providing draft agreements in December 2025, cancelled all mitigation response team ("MRT") negotiations in April 2026, and issued a May 7, 2026 Memorandum that brought the review process to a complete standstill. A 19-state coalition moved to intervene on July 16, 2026, underscoring the broad impact of the freeze.

Key Holdings

1. Jurisdiction Confirmed

The Court rejected DoD's argument that 49 U.S.C. § 46110 channels review exclusively to the Courts of Appeals. The Court held that § 46110 applies only to orders of agencies "named" in the statute—not DoD.

2. Final Agency Action Established

Applying both prongs of *Bennett v. Spear*, the Court found the freeze constitutes final agency action. DoD "made the 'decision' to 'refrain[] from

executing further agreements and drafting new ones,'" marking the consummation of agency decisionmaking. Legal consequences flow because the freeze "imposes obligations on the agency." The Court noted that "[t]he mere possibility that an agency might reconsider" does not make final action nonfinal.

3. Likelihood of Success on the Merits

The Court found Plaintiffs demonstrated a likelihood of success on both APA claims:

- **Section 706(2) (Arbitrary and Capricious):** DoD violated the 75-day statutory deadline, the 30-day regulatory deadline for preliminary review, and the 90-day regulatory deadline for mitigation discussions. The Court rejected DoD's argument that the 30-day period is merely an interim milestone, stating "the regulation then just means what it means." The Court further held that "practical constraints cannot justify an agency's failure to comply with federal law."
- **Section 706(1) (Unlawful Withholding):** Applying *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166 (9th Cir. 2002), the Court held this constitutes unlawful withholding of agency action—not merely unreasonable delay—because Congress specifically provided deadlines for performance. Accordingly, the *TRAC* delay factors do not apply.

4. Irreparable Harm and Balance of Equities

The Court found irreparable harm established because economic harm constitutes irreparable injury where money damages are unavailable in APA suits. Plaintiffs estimated $2.0 billion in harm from the freeze.

On the balance of equities, the Court rejected DoD's national security arguments, finding that "[n]ational security interests are on both sides of the scale because Plaintiffs merely wish to reinstate DoD's review process." The Court emphasized: "It is not for the DoD, or this Court for that matter, to override the careful choices of the people's elected representatives. If DoD wishes to alter the statutory scheme, it can ask Congress to do so."

5. Scope of Relief: Nationwide Injunction

The Court granted nationwide relief applying to all wind energy project applications—not just plaintiffs' projects. The Court held that limiting relief would "require rewriting the statute." DoD must submit status reports every 30 days addressing review resumption across five categories of pending projects.

Practical Implications for Wind Energy Developers

1. **Re-engage Immediately.** Developers should contact their Clearinghouse and MRT contacts as soon as practicable. DoD is now required to resume processing applications, and early engagement may position projects favorably as the review pipeline

resumes.

2. **Monitor Status Reports.** DoD must file status reports every 30 days detailing progress across all categories of pending projects. These reports will provide critical visibility into the pace of compliance and potential bottlenecks.
3. **Preserve Documentation.** Developers should maintain comprehensive records of all communications, timelines, and impacts experienced during the freeze period. This documentation may support deadline tolling arguments and potential damages claims.
4. **Prepare for Potential Appeal.** DoD may appeal the ruling and seek a stay pending appeal. Developers should remain vigilant and be prepared for the possibility that relief could be temporarily paused during appellate proceedings.
5. **Assess Project Timelines.** Given the extended duration of the freeze (nearly one year for some projects), developers should reassess interconnection agreements, tax credit qualification deadlines, power purchase agreements, and financing commitments in light of the resumed timeline.

Looking Ahead

While this ruling is a significant victory for the wind energy industry, it may not be the final word. DoD retains the option to appeal to the Ninth Circuit, and the government could seek a stay pending that appeal. However, given the Court's emphatic findings on the merits and the statutory clarity of the applicable deadlines, a stay would require DoD to demonstrate a likelihood of success on appeal—a high bar given this opinion.

The 30-day status report requirement provides an ongoing enforcement mechanism and ensures continued judicial oversight of DoD's compliance.

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