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De-Bottlenecking Federal Permitting: Renewable Energy Industry Secures Preliminary Injunction Against Five Anti-Wind and Solar Permitting Actions

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On April 21, Troutman Pepper Locke secured a landmark preliminary injunction on behalf of a consortium of eight regional renewable energy trade groups and a renewable energy nonprofit, blocking further implementation of five directives issued by the Department of the Interior (DOI) and the Army Corps of Engineers (the Corps) aimed at creating impediments for federal permitting of wind and solar projects. The U.S. District Court for the District of Massachusetts held that the plaintiffs are likely to succeed on their claims that each of the agency actions is arbitrary and capricious and/or contrary to law under the Administrative Procedure Act (APA), and that the plaintiffs demonstrated that each action has irreparably harmed them by delaying or jeopardizing dozens of specific wind and solar projects planned by member developers. The injunction applies only to members of the plaintiff organizations, but positions the renewable energy industry for a decision on the merits that would likely be nationwide in scope.

The injunction covers the following five agency actions:

1. **DOI Review Memo (Bottleneck Memo)** – This July 15, 2025, memo imposed three layers of senior political review on wind- and solar?related permitting and consultation actions.
2. **Wind/Solar IPaC Ban** – Concurrent with the DOI Review Memo, the U.S. Fish and Wildlife Service (USFWS) barred wind and solar projects from using its IPaC online tool that all other sectors can still use to support Endangered Species Act compliance and facilitate Corps wetlands permits.
3. **DOI Land Order (Capacity Density Rule)** – This August 7, 2025, secretarial order directed DOI to consider a new “capacity density” metric (energy generated per acre) and to only permit the most capacity?dense alternative — systematically disfavoring wind and solar over other forms of energy on public lands and in federal waters.
4. **Corps Memo** – This September 18, 2025, memo ordered the Corps to incorporate capacity density considerations, prioritizing “high capacity?density” projects in its Clean Water Act / Rivers and Harbors Act permitting.
5. **Zerzan M?Opinion** – This May 1, 2025, DOI Solicitor’s Office opinion reinstated a hyper?restrictive interpretation of the Outer Continental Shelf Lands Act (OCSLA) from late 2020 that effectively requires offshore wind to cause no more than *de minimis* interference with other ocean uses and ordered reevaluation of past approvals.

Consistent with Troutman’s strategy in the case, the court’s ruling went methodically, claim by claim, explaining how each challenged agency action was final, violated the APA, and caused harm to the plaintiff organizations and their members. The result was an order immediately halting implementation of each of the challenged actions, and a strong message that when agencies seek to implement a wide-ranging shift in policy, the discrete directives

implementing the new policy must be consistent with existing statutes and regulations and backed by rational, record-based explanations.

The ruling also affirmed that trade associations can prove standing and irreparable harm by providing detailed project?level evidence: sunk development costs, ongoing rental and financing obligations, delays, imperiled revenue streams and tax credits, and reliance on earlier regulatory frameworks. Because money damages are unavailable under the APA, the court held that such harms were irreparable and warranted injunctive relief.

In the days since the ruling, we have begun to see indications of the government's compliance with the court's order, beginning with the removal of the banner on the IPaC website that had prevented its use for wind and solar projects. We encourage wind and solar developers protected by this injunction to rigorously document their projects' ability to navigate the DOI and Corps permitting processes and share details of any perceived noncompliance with the plaintiff organizations of which they are a member.

Looking ahead, the government has 60 days from the date of the court's ruling to appeal the preliminary injunction. It can also seek a stay from the district court or (if it appeals) from the First Circuit, although such a request would face an uphill climb in light of the district court's carefully crafted opinion.

For questions or to discuss the implications of this ruling on your projects, we encourage you to contact Troutman Pepper Locke's environmental and natural resource attorneys.

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