

Thank you for the opportunity to testify today. My name is Scott Slesinger, and I am the Legislative Director for the Natural Resources Defense Council (NRDC). NRDC is a nonprofit organization of scientists, lawyers, and environmental specialists dedicated to protecting public health and the environment. I appreciate the opportunity to testify and will concentrate my oral remarks on Federal environmental reviews for new infrastructure, including broadband.

Every conversation on Capitol Hill about solving our infrastructure crisis begins with earnest statements that “all options are on the table” before immediately rescinding the solution.

The poor state of our infrastructure is not because of federal environmental reviews or permitting. Our problem is cash. The solution is the political will to appropriate the needed dollars.

--Numerous studies from General Accounting Office and Congressional Research Service show that it is not federal rules

that are causing the delays. The number one problem is lack of funding, followed by state and local laws, citizen opposition to projects, and zoning restrictions. The widely quoted “Two Years Not Ten: report” is based on false assumptions, widely inaccurate and unsubstantiated claims fully debunked by the Congressional Research Service¹ and others. Recent data shows that the average time for an Environmental Impact Statement is closer to 3.6 years not 10.²

Chairman Blackburn, broadband deployment is not delayed by Environmental Impact Statements; in fact, no broadband project was ever required to do one by the Federal Communication Commission. Drinking water projects suffer from a lack of financing, not environmental review.

¹ <https://fas.org/sgp/crs/misc/twonot.pdf>

² <https://www.americanprogress.org/issues/economy/reports/2017/05/03/431651/debunking-false-claims-environmental-review-opponents/>

Scapegoating NEPA may be a cheap applause line at the local Chamber, but we cannot “streamline” our way to universal broadband access, new tunnels under the Hudson, a bridge over the Ohio River, or new sewer systems.

Why NEPA Matters

I would like the Committee to appreciate why NEPA is so important.

In many cases, NEPA gives your constituents their only opportunity to voice concerns about a federal project's impact on their community. Because informed public engagement often produces ideas, information, and solutions that the government might otherwise overlook, NEPA leads to better outcomes – for everyone. The NEPA process has saved money, time, lives, historical sites, endangered species, and public lands while encouraging compromise and resulting in better projects with more public support.

Most recommendations to cripple the process try to limit public notice and comment are undemocratic. The first time a rancher learns of a pipeline going through his property shouldn't be when an attorney shows up at his door with an offer to purchase under threat of taking the property by eminent domain.

Recent Changes to the NEPA and Permitting Process

Because many congressional committees have tried to assert jurisdiction over NEPA, there have been numerous and contradictory changes to the NEPA process made by Congress in 2005, 2012 and 2015. Various provisions have shortened public comment periods, changed the statute of limitations to four different time periods, limited access to courts, and set up arbitrary deadlines for permit approvals. The Department of Transportation can now fine other agencies that miss deadlines; a provision that makes as much sense as debtors' prison.

The Fixing America's Surface Transportation (**FAST**) Act (Pub. L. No. 114-94) in 2015 made dramatic changes in the process. The

law, in title 41, created a new inter-agency administrative apparatus called the Federal Infrastructure Permitting Improvement Steering Council—largely controlled by (OMB)—to set deadlines, push the resolution of interagency disputes, and allocate funding and personnel resources to support the overall decision-making process.

President Trump’s first Infrastructure Permitting Executive Order – as the chief Senate sponsor, Senators Portman wrote in a letter to the President³ – contradicted authorities and responsibilities already in FAST-41, to the consternation of project sponsors that were already participating in the permitting board’s existing process and this slowed projects. Even the Business Roundtable wrote the President urging them to concentrate on implementing the existing laws congress has passed rather than do additional

changes. This law, FAST-41 is nowhere near completely implemented.

Despite enactment of these laws, this Congress has seen many bills go to the House floor that would further amend the NEPA process without regard for their impact on process changes already made. Rather than simplifying current processes, these bills would create new conflicts, sow confusion, and delay project reviews.

The recent draft infrastructure proposal from the White House should not be taken seriously. The leaked provision would repeal critical clean air, clean water and endangered species protections. It would also set up a process guaranteed to neuter public input into federal actions such as giving agency heads free reign to virtually exempt any project from NEPA, free from court challenge.

To fix our infrastructure, we don't need to give the Interior Secretary carte blanche to build pipelines through every national

park. We do need NEPA to help build a modern infrastructure system that is resilient, energy efficient systems and takes into account the impact of a changing climate and the needs of the 21st century. We can do this smarter and better --by using --not crippling, the environmental review process.

Thank you for the opportunity to testify. NRDC looks forward to working with the committee on bold and effective solutions to our nation's infrastructure challenges.