

OUTDOOR ALLIANCE

August 23, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

Dear Speaker Pelosi:

On behalf of the human-powered outdoor recreation community, we write to share our concerns with elements of H.R. 3684, the “Infrastructure Investment and Jobs Act,” that will undermine public participation in federal decision-making and particularly curtail the participation of historically marginalized communities. The bill, which passed the Senate on August 10, 2021, includes provisions that limit public input and meaningful review of public health and environmental impacts, undercut efforts to combat climate change, undermine principles of racial equity and environmental justice, and reduce government accountability across a range of projects by undercutting key aspects of the National Environmental Policy Act. For our organizations and our community, NEPA is an essential avenue for public participation in land management decision-making, as well as a crucial tool for facilitating environmental analysis and informed decision-making and a means of finding creative solutions based on a range of alternatives.

While the bulk of H.R. 3684 will help our country build back better, rebuilding our nation’s infrastructure and moving the country toward a greener future should not cut off participation by vulnerable communities or exempt new projects from important environmental safeguards that Congress has previously established. As we make historic investments in critical infrastructure, we must also ensure that the government is transparent in its decision-making, follows sound science, and provides opportunities for affected communities to have a voice in decisions about infrastructure development.

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Winter Wildlands Alliance and the American Alpine Club, as well as Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling



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Association, The Mountaineers, the Mazamas, Colorado Mountain Club, and Surfrider Foundation. Collectively we represent the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes. Our organizations and our members are frequent participants in land management planning and other agency decision-making governed by the National Environmental Policy Act (NEPA) process, and our membership is particularly concerned with maintaining the integrity of this core environmental and public participation law.

We ask that you work to remove the following provisions from any final infrastructure package:

- **Waivers of Environmental Review and Public Input Under the National Environmental Policy Act (NEPA):** Legislative categorical exclusions like those included in Division A, the Surface Transportation Reauthorization Act of 2021, and Division D, the Energy title, which completely bypass environmental review and public input on projects with potentially severe health and environmental impacts, are particularly problematic. Specifically, we oppose provisions that undermine the National Environmental Policy Act's core tenets of public input and transparent and informed government decision-making. Sections 40806, 11318, and 11317 create categorical exclusions for broad categories of federal action and industrial activities that put people and our environment at risk.
- **Provisions Undermining the National Environmental Policy Act:** Many provisions in the bill work together to fundamentally undermine informed decision-making and meaningful review under NEPA and other landmark environmental laws. These provisions include, but are not limited to, Sections 11301, 11313, and 11315, which codify previous authorities that have either been rescinded by President Biden, been found to be problematic by the Government Accountability Office, or very obviously undercut NEPA's core values.



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- **Provisions Lacking Science-Based Sideboards:** Sections 40803 and 40804 of the Energy title, which are focused on public lands, have multiple provisions that could exacerbate the global climate, biodiversity, and wildfire crises because they are not based in sound science. The House should consider adding sideboards so that these sections only fund projects and programs that are ecologically and scientifically sound, improve the health of our public lands and waters, and protect communities from wildfire risks in a meaningful and appropriate manner.
- **Provisions Limiting Environmental Review of Mines:** Section 40206 of the Energy title would shorten the already problematic permitting process for large hardrock mines. The woefully outdated 1872 Mining Law effectively gives mining companies free reign over our public lands. This provision exacerbates existing issues by encouraging more mining with little environmental review of potential toxic impacts or input from affected communities.
- **Greenlighting Permits Regardless of Consequences:** Permanent reauthorization of Title 41 of “Fixing America’s Surface Transportation Act” (FAST-41) in Section 70801 applies an abbreviated permitting scheme to energy, mining, and infrastructure projects costing more than \$200 million. This is an incredibly broad category of projects, all of which have considerable size, cost, complexity, and potential community impacts. This provision undermines the integrity of multiple environmental laws, including NEPA, and makes compliance with other laws and permitting requirements more challenging. FAST-41 includes many of the same troubling elements that led OA member organizations Winter Wildlands Alliance and American Alpine Club to challenge CEQ’s 2020 NEPA Rule in federal court, including limiting public input and access to the courts, limiting consideration of alternatives that may help to address the climate crisis, and limiting government accountability. Under FAST-41, these troubling limits would apply to the nation’s largest infrastructure projects where full consideration



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of potential impacts, public participation, and government transparency are most warranted.

Thank you for your consideration, and we ask you to take action to ensure the final infrastructure bill is free from these harmful provisions.

Sincerely



Louis Geltman
Policy Director
Outdoor Alliance

cc: Rep. Raul Grijalva

Hilary Eisen, Policy Director, Winter Wildlands Alliance
Taylor Luneau, Policy Manager, American Alpine Club
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Beth Spilman, Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
Todd Walton, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Mitsu Iwasaki, Chief Executive Officer, American Alpine Club
Sarah Bradham, Interim Executive Director, the Mazamas
Keegan Young, Executive Director, Colorado Mountain Club
Chad Nelson, Chief Executive Officer, Surfrider Foundation

