

Congress of the United States

Washington, DC 20515

U.S. Senator Barbara Boxer
Conference Committee Chair

U.S. Representative John Mica
Conference Committee Vice Chair

May 17, 2012

Dear Conferees:

As the House and Senate conference a transportation bill that will allocate billions of dollars for much-needed transportation projects across the nation we urge you to oppose and remove all measures undermining the National Environmental Policy Act (NEPA) from any final transportation bill. We also urge you to remove the provisions that prevent EPA from enacting federal standards for the disposal of toxic ash.

We have serious concerns about the approach H.R. 4348 takes to expediting project review. The bill proposes to eliminate NEPA protections entirely for projects under an arbitrary funding threshold. It creates an unconscionably broad NEPA exclusion for any activities "carried out under Title 23," and it would limit all NEPA review to 270 days with a default project approval regardless of harmful environmental, economic, or health effects on communities. The impact of provisions such as these is severe: nearly all stakeholders, including communities of color, landowners, business owners, local governments, and low income populations, will be completely shut out of decisions. Furthermore, these rollbacks may have serious impacts on Department of Transportation Environmental Justice policies, which are primarily administered through the NEPA process.

Multiple reports on transportation project delays confirm that the primary causes of delay are outside the NEPA process. In fact, the most commonly identified causes of delay are lack of funding, securing community consensus, and dealing with affected residents and businesses, including utility companies and railroads. What's more, according to the Federal Highway Administration, 96.5% of transportation projects involve a categorical exclusion, which is the least burdensome form of environmental review and does not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

In addition to the disparate impacts of the "environmental streamlining" provisions, we are deeply concerned with the inclusion of the Title V coal ash provisions in H.R. 4348. Coal plants produce more than 125 million tons of contaminated waste each year, which contains hazardous chemicals like arsenic, lead, and mercury and is stored in waste ponds across the country. The largest toxic waste spill in U.S. history occurred in 2008 in Kingston, TN. Over 1 billion gallons of coal ash burst from an earthen dam, swept away homes and covered 300 acres in toxic sludge. Despite the known risks of these ponds and inconsistent state rules and enforcement, there are no federal regulations governing the storage of toxic coal waste. Across the country, coal ash is often stockpiled in communities of color, who are the least equipped to respond to water poisoning and the onslaught of toxic dust. Nearly 70 percent of coal ash ponds in the United States are located in areas where household income is lower than the national median.

Please do not condition the thousands of jobs that will be created by this transportation bill on harmful provisions limiting public review and input, and leaving communities vulnerable to health impacts from coal ash pollution.

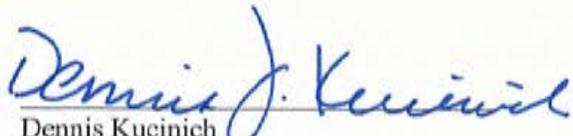
Sincerely,



Keith Ellison
MEMBER OF CONGRESS

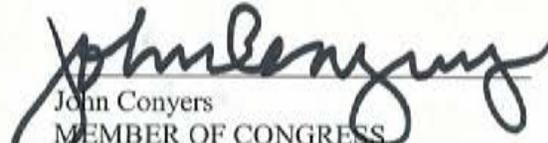


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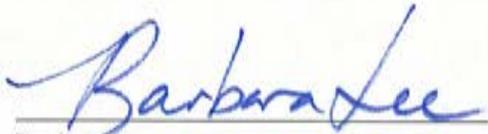

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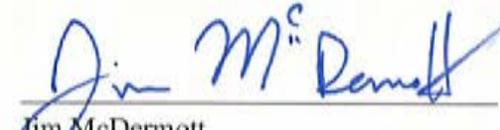

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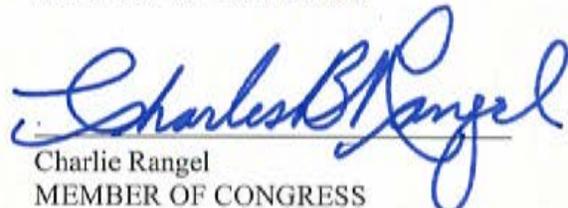

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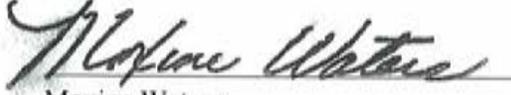

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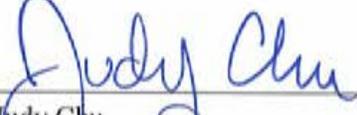

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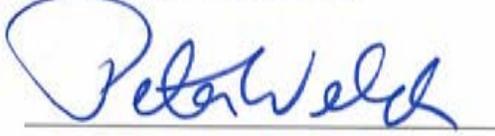

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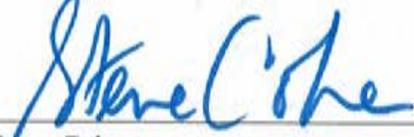

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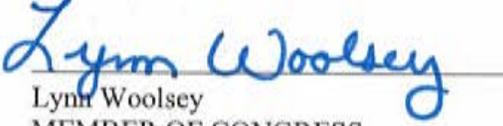

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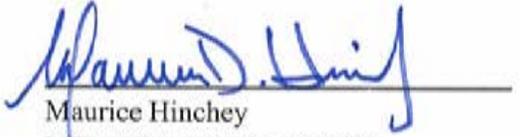

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