

Alaska Wilderness League * American Public Health Association * Center for Biological Diversity * Center for Science and Democracy at the Union of Concerned Scientists * Defenders of Wildlife * Earthjustice * Ecology Center of Michigan * Environmental Defense Fund * Environmental Law and Policy Center * Environmental Protection Information Center * Klamath Forest Alliance * League of American Bicyclists * League of Conservation Voters National Community Land Trust Network * Natural Resources Defense Council * San Juan Citizens Alliance * Safe Routes to School National Partnership * Southern Environmental Law Center Trust for America's Health

July 24, 2014

U.S. Senate
Washington, DC 20510

Re: Oppose Toomey Amendment

Dear Senator:

On behalf of our millions of members and supporters, we urge you to **oppose the Toomey Amendment** to the Highway Trust Fund legislation, H.R. 5021

This Amendment proposes to completely exempt reconstruction activities from nearly *all* Federal environmental laws in declared disaster areas, including the National Historic Preservation Act, the Clean Water Act, the National Environmental Policy Act (NEPA), the Endangered Species Act, the Wild and Scenic Rivers Act, and any federal law relating to the protection of wetlands. This means that all requirements under these laws would be waived for such projects, including review of environmental, public health, social, and cultural impacts, along with public participation notice and comment requirements. As a result, affected stakeholders – including communities, citizens, businesses, outdoor industry outfitters, hunters, and fishermen – would not have a say in potentially large construction projects that could impact them.

This amendment creates the perverse incentive to rebuild in a manner that is not responsive to the known risks that were exposed by what caused the destruction. Incentivizing rebuilding without responding to what caused the emergency is contrary to safe and sensible post-disaster recovery and common sense.

This amendment is also completely unnecessary since there already exists sufficient flexibilities and authorities from the Federal Emergency Management Agency (FEMA), the Council on Environmental Quality (CEQ), and MAP-21 to address emergency situations. For example, the Stafford Disaster Relief and Emergency Assistance Act allows FEMA to provide immediate relief without conducting analysis under the National Environmental Policy Act (NEPA).¹ CEQ regulations also provide that “[w]here emergency circumstances make it necessary to take an action with significant environmental impact” without conducting NEPA analysis, “the Federal agency taking the action shall consult with [CEQ] about alternative arrangements.”² Finally,

¹ 42 U.S.C. § 5159

² 40 C.F.R. § 1506.11

³ Sec. 1315 of MAP-21; 23 CFR 771.117(c)(9); 23 CFR 771.118(c)(11)

these exact activities are already subject to a categorical exclusion under NEPA pursuant to requirements in the recently passed MAP-21.³

Environmental laws have never stood in the way of disaster recovery. Accordingly, we urge you to oppose the Toomey Amendment.

Respectfully,

Alaska Wilderness League
American Public Health Association
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Center for Science and Democracy at the Union of Concerned Scientists
Defenders of Wildlife
Earthjustice
Ecology Center of Michigan
Environmental Defense Fund
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