



March 19, 2020

The Honorable John Barrasso
Chairman
U.S. Senate Committee on Environment and
Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
U.S. Senate Committee on Environment and
Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski
Chairman
U.S. Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
U.S. Senate Committee on Energy and Natural
Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen Barrasso and Murkowski and Ranking Members Carper and Manchin:

As Congress works on a stimulus package to address the impact of the coronavirus pandemic, we write to express our support for funding improvements to our country's aging infrastructure. Investing in infrastructure would stimulate the economy and provide much needed jobs to Americans who are suffering from the effects of the pandemic. We also urge you to ensure that infrastructure investments are made in a manner that honors America's commitment to historic preservation.

The Coalition for American Heritage ("Coalition") is an advocacy coalition that protects and advances our nation's commitment to heritage preservation. Supported by the American Cultural Resources Association, the Society for Historical Archaeology, the American Anthropological Association, and the Society for American Archaeology, the Coalition collectively represents 350,000 cultural resource management professionals, academic archaeologists and anthropologists, and subject matter experts. Many of our members serve as consultants to project applicants and facilitate compliance with federal permitting laws. Additionally, many of our members serve federal government agencies by helping ensure compliance with those same laws.

NHPA and NEPA reviews are important

Congress should avoid exempting projects from National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) reviews in any infrastructure bill. Keeping these reviews in place will not delay projects¹ and will ensure that communities have their voices heard and important resources are protected. Through the passage of legislation like the NHPA and the NEPA, Congress has repeatedly

¹ See, e.g., Luther, Linda *The Role of the Environmental Review Process in Federally Funded Highway Projects: Background and Issues for Congress*, Congressional Research Service (2012), available at https://environment.transportation.org/pdf/proj_delivery_stream/crs_report_envrev.pdf; AECOM, *40 Proposed U.S. Transportation and Water Infrastructure Projects of Major Economic Significance*, at 2 (2016), available at <https://www.treasury.gov/connect/blog/Documents/final-infrastructure-report.pdf> (describing how funding, not federal review, is the most common cause of delays in infrastructure projects).

ensured that the American public has a voice in federal permitting decisions. Federal law dictates that any federal involvement triggers a review under the NHPA and NEPA. These laws should not be weakened.

Require Both NHPA Section 106 and Section 4(f) reviews

Current law requires transportation projects to undergo review under both Section 106 of the NHPA and Section 4(f) of the U.S. Department of Transportation Act of 1966. We urge Congress not to substitute Section 106 reviews for Section 4(f) reviews, because such an action would dramatically weaken the protections afforded to historic sites. Section 4(f) requires U.S. Department of Transportation agencies not to approve the use of historic sites unless there is no feasible avoidance alternative and the action includes all possible planning to minimize harm to the property, or the Administration determines that use of the property will have a de minimis impact. In contrast, Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) with a reasonable opportunity to comment.

Oppose arbitrary deadlines on the review process

The Coalition believes that the permitting process should be predictable, consistent, and efficient, but any efforts to impose arbitrary deadlines on reviews are misguided. The vast majority of projects are reviewed quickly and efficiently. Instead, the Coalition advocates for a focus on improved use of existing tools to reduce costs and delays. Federal agencies can use Section 106 program alternatives for greater efficiency, encourage early consultation with stakeholders, and better integrate historic preservation review requirements under NHPA with NEPA and Section 4(f) reviews. Federal agencies should also be authorized to advise applicants during the pre-application phase on public engagement and appropriate measures to identify and resolve historic preservation conflicts.

Waiving permitting review requirements would also risk the unnecessary loss of cultural resource management jobs. The cultural resource management industry employs more than 10,000 professionals nationwide and supports more than 1,300 small businesses. These professionals dedicate their careers to ensuring predictability and integrity in federal projects. If Congress allows federal projects to go forward without review, it risks the livelihoods of all those individuals whose jobs depend on a robust review process.

Preservation of America's historic treasures can and should be accomplished in tandem with the continued growth and development of our nation's infrastructure. We stand ready to work with you to ensure that infrastructure projects proceed efficiently and with effective protection for our irreplaceable cultural heritage.

Sincerely,



Marion Werkheiser
Policy Director
Coalition for American Heritage