

June 22, 2023

The Honorable Tom Tiffany, Chairman
House Committee on Natural Resources
1324 Longworth House Office Building
United States House of Representatives
Washington, D.C. 20515

The Honorable Joe Neguse, Ranking Member
House Committee on Natural Resources
1332 Longworth House Office Building
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Tiffany and Ranking Member Neguse:

We are writing to express our concerns with the untitled legislation, H.R. 4141, offered by Representative Russ Fulcher, to “provide that certain communications projects are not subject to requirements to prepare certain environmental or historical preservation reviews, and for other purposes.” While our organizations support increasing much-needed rural access to broadband, this legislation would essentially eliminate federal oversight for broad categories of actions on federal lands, shield decisions from public scrutiny, eliminate public input and undermine responsible development of critical infrastructure.

As currently drafted, Section 2 of the bill would entirely eliminate required reviews under the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) for broad categories of broadband infrastructure development. The Federal Communications Commission (FCC) attempted to exempt many of the same activities outlined in this legislation via an Order in 2018. That Order was challenged in court and, in 2019, the U.S. Court of Appeals for the D.C. Circuit struck down the FCC’s action finding that the FCC’s attempted explanations for eliminating the environmental review “did not meet the standard of reasoned decisionmaking.” *United Keetoowah Band of Cherokee Indians v. FCC*, 933 F. 3d 728, 745 (D.C. Cir. 2019).

The way to bridge the digital divide and unleash the enormous potential of the \$65 billion of federal investment in broadband included in the Infrastructure Investment and Jobs Act is not for Congress to direct the FCC to ignore the environmental, health, and cultural impacts of broadband development. Instead, Congress should focus on providing the necessary resources, staff, funding, and training to ensure that the review process for the siting of this important infrastructure is efficient and equitable. An effective environmental review process ensures decision-makers are well-informed about potential alternatives and modifications that will expand public access to communications technology while avoiding and minimizing harm to environmental and cultural resources.

Sincerely,

Center for Biological Diversity
Earthjustice
Environmental Law and Policy Center
GreenLatinos
League of Conservation Voters
National Trust for Historic Preservation

Natural Resources Defense Council
Southern Environmental Law Center