



Friends of the Capital Crescent Trail

November 1, 2016

By fax and email

Senator Barbara Mikulski
US Senate

Senator Ben Cardin
US Senate

Rep. Chris Van Hollen
US House of Representatives

Dear Senators Mikulski, Cardin, and Rep. Van Hollen:

We are writing to you as constituents, and, in the case of Friends of the Capital Crescent Trail, as a Bethesda MD-based nonprofit dedicated to preserving green space, who share your great concern for and interest in the environment and effective transportation.

Our request is simple: please confirm that you will stand up for our nation's environmental laws, which protect our citizens, children, endangered species, parks and the environment at large, and confirm that you will oppose any rider or other provision that would waive environmental, transportation or other law in the lame duck session to come.

Scores of conservation groups have co-signed and are now adding more organizations to a letter asking the President to state clearly in his Statement of Administration Position on lame duck legislation that he will oppose any such waivers or riders. We are writing you now to ask that you confirm that you will oppose such waivers or riders:

1) Because the Congress looks up to you as principled, able and powerful Members of Congress who can lead by example in a manner that will restore the

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faith of the nation in the rule of law and the proper roles of Congress and the other two branches of government, and

2) Because the Purple Line in Maryland has been found by a federal Court to be in violation of the law.

Why such concern, you may ask? Unfortunately, waivers and riders occur all too often, as the environmental and public interest groups who battle them every year well know. We note that the Highway Act reauthorization (FAST Act) 2015 contained a provision that appears to waive federal historic preservation law for just a few fixed rail transit projects such as the Purple Line, which affects several historic properties and sites.

Moreover, regarding the Purple Line, the Court has required a Supplemental Environmental Impact Statement, focusing at a minimum on reassessing current ridership projections in light of both long-stated concerns on the record about them and the past year's official recognition of Metro's serious safety, reliability and ridership problems, and the effect of these on the viability of the project since most of the projected Purple Line users would already be transit users. In addition, the Judge reserved judgment on over twenty additional possible violations of environmental and transportation law. As the Judge explained in his opinion:

"[D]efendants [the Federal and Maryland Transit Administrations] failed to engage in the requisite supplemental analysis with respect to important recent information [the implosion of Metro] that calls into question, at a minimum, whether nearly a billion dollars in federal dollars should ultimately be committed to a project for which serious questions have been raised as to its future viability."

Because the environmental impact statement has been found in violation of the law, it is therefore more important than ever to prevent any waiver or rider that would exempt this project from full compliance with the law.

We also note that the Senate Appropriations Transportation Subcommittee, has directed the FTA, in its Committee Reports, to be particularly careful to meet the requirement of Federal Transportation law that requires the FTA to determine that there are sufficient financial and technical resources to recapitalize, operate and maintain a region's existing transportation network without causing any decrease in service before approving a grant for a new project (40 U.S.C. 5309(f)). In the case of the Purple Line, this network includes the greater Washington metropolitan area Metrorail, which is in calamitous disrepair and dysfunction as we see daily in the news media. The Subcommittee's prescience and attention to this fundamental principle of not robbing Peter to pay Paul, dovetail with the Federal Court's decision and concerns.

We, and the thousands who have signed petitions to Save the Trail¹, hope to thank you for confirming that you will uphold the law and oppose any waivers or riders, including any that would encompass the Purple Line, and thank you for your leadership on this issue. We look forward to hearing from you in writing. Indeed, the best way to reassure citizens and conservation and good government groups of your respect for the law, is to send a letter to your colleagues on the Appropriations Committee and the Senate and House Leadership opposing any and all such riders, before the election and long before the lame duck session begins.

We would be happy to meet with you and your staff to further explain and document our concerns.

Sincerely,



Christine Real de Azua
Member of the Board
Friends of the Capital Crescent Trail

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Julie Stanish, Chevy Chase
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cc: Erich Pica, President, Friends of the Earth
Mary Beth Beetham, Director of Legislative Affairs, Defenders of Wildlife
Alisa Gravitz, President, Green America
Allan Thornton, Chairman, Environmental Investigation Agency
Brent Blackwelder, Member of the Board, International Rivers
Gene Karpinsky, President, League of Conservation Voters

¹ <http://savethetrail.org/news-releases/letter-to-larry-hogan/>