June 28, 2021

The Honorable Diana DeGette
2111 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Neguse
1419 Longworth House Office Building
Washington, DC 20515

The Honorable Ken Buck
2455 Rayburn House Office Building
Washington, DC 20515

The Honorable Doug Lamborn
2371 Rayburn House Office Building
Washington, DC 20515

The Honorable Lauren Boebert
1609 Longworth House Office Building
Washington, DC 20515

The Honorable Ed Perlmutter
1226 Longworth House Office Building
Washington, DC 20515

Dear Colorado Congressional Delegation,

The Colorado Department of Transportation (CDOT) is seeking the support of the Colorado Congressional Delegation in regards to proposed changes to 23 U.S.C. § 111 designed to mitigate its negative impact on the nation’s ability to effectively meet the ambitious climate goals as put forth by President Biden. As currently written, this regulation effectively prohibits the installation of electric vehicle (EV) charging infrastructure within the interstate highway right-of-way, including at safety rest areas, park and rides, and other similar sites. CDOT leadership and staff firmly believe that the regulation as it stands is outdated and unnecessarily restrictive, in that it prevents the deployment of commercial charging infrastructure at the very locations on the nationwide transportation network most suited for it. This policy, established more than a half century ago, is no longer relevant to the current state of transportation in the United States and directly contradicts the President’s goal of building a national network of 500,000 EV chargers in the coming decade.

Currently the House of Representatives is considering HR 3684, the INVEST in America Act, which in section 1211 includes a provision to reverse the current prohibition on providing EV charging within the interstate right-of-way, including at rest areas and park and rides. If passed, this would allow CDOT and other state departments of transportation to leverage our existing highway infrastructure to expand charging accessibility, connect rural communities currently lacking in charging options, and foster longer-distance EV travel across Colorado, the west, and the entire United States. Over time, this will foster greater adoption of zero-emission vehicles by Coloradans across geographic regions, income levels, and walks of life while supporting
cleaner air and reducing greenhouse gas emissions (GHG). However, proposed amendments 70 and 71 from Representative Larsen seek to undo this positive change and maintain the status quo. CDOT strongly encourages the Colorado Congressional Delegation to oppose these amendments and support HR 3684 in its original intent.

Recent experience in Colorado demonstrates the importance of this issue. Earlier this month, the FHWA cited 23 U.S.C § 111 in denying a CDOT proposal for an EV fast-charging project located at the Burlington Welcome Center in Burlington, CO. In 2018 the Colorado Energy Office (CEO) awarded a $10.33 million competitive grant to ChargePoint, Inc. to develop 34 DC fast-charging sites across the state’s major transportation corridors, including along I-70 East. During the implementation of this project, ChargePoint staff identified the Burlington Welcome Center as a prime location for placement of this infrastructure given its proximity to the interstate, high visitation numbers, and supportive amenities. As such, ChargePoint entered into conversations with CDOT, as the property owner, as well as the Colorado Tourism Office (CTO), which operates the site. Both entities are supportive of the effort and have worked with ChargePoint to scope and design the project. CDOT, being aware of the restrictions in 23 U.S.C § 111, worked to determine the exact right-of-way boundaries of the project site and sought independent confirmation from the Office of the Attorney General on our interpretation of the statute, determining that a project would be allowable in this situation. Nonetheless, FHWA applied a more restrictive interpretation of the regulation and denied CDOT the ability to proceed.

The State of Colorado has ambitious GHG reduction goals established by Colorado HB19-1261 and in the Colorado Greenhouse Gas Pollution Reduction Roadmap to decrease GHG by 26% by 2025, 50% by 2030, and 90% by 2050 (all from a 2005 baseline). As a part of this effort, the State has a target of deploying 940,000 light-duty EVs, 1,000 zero-emission transit vehicles, and a 30% zero-emission market share of new medium- and heavy-duty vehicles in Colorado by 2030. To achieve these goals, as well as those of the Biden Administration, it will be necessary for the State of Colorado to play an active role in fostering the development of EV charging infrastructure across the interstate and highway network, especially in the rural areas on the Eastern Plains that have lower levels of EV adoption. Burlington presents a particularly strong EV charging need given its role in bridging the gap between the population centers of the Front Range and our neighbors to the east in Kansas and beyond. Our inability to move forward with this project and others like it represents a missed opportunity and a significant impediment to future progress in the sphere of transportation electrification.

In conclusion, CDOT is seeking the support of Colorado’s Congressional Delegation for the proposed changes to 23 U.S.C § 111 included in HR 3684 to ensure that both the State of Colorado and the United States are able to effectively meet the ambitious renewable energy and electrification goals put forth by the President. The regulation as it currently stands directly conflicts with both state and federal GHG reduction goals and therefore does not support the interests of the traveling public, and we hope for your support in modernizing it.
Thank you for your attention and please direct any follow-up questions to Blake Androff at bandroff@signaldc.com or (503)515-8750.

Regards,

Shoshana M. Lew
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