

How Heinrich's Permitting Bill Would Streamline the Desert Southwest Pipeline

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Senators Heinrich, Whitehouse, Lee, and Capito introduced the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA) in October. The bill would significantly weaken bedrock environmental laws, endanger public health, and erode the public's involvement in proposed fossil fuel projects that harm communities and worsen the climate crisis. Among the projects it would accelerate is Energy Transfer's Desert Southwest Expansion pipeline.

Although Senator Heinrich negotiated the BAAJA permitting deal, he has remained silent about a major gas pipeline cutting across his home state. Even worse, his bill would make the pipeline much likelier—particularly by stripping the incoming Administration of New Mexico Governor Deb Haaland of crucial tools to protect communities from dangerous projects.

The Data Center Pipeline

Announced in 2025, the proposed Desert Southwest Expansion is a 48-inch gas pipeline that would run 516 miles from Texas through New Mexico and Arizona. It would carry up to 2.3 billion cubic feet of natural gas per day– the annual greenhouse gas equivalent of 12 coal power plants. According to the Arizona Corporation Commission, the state's utility regulator, there were 1300 megawatts (MWs) of data centers under construction in 2025 and 4157 MWs proposed. This boom in data centers is driving a generational boom in natural gas across the southwest.

Major Arizona utilities, including Arizona Public Service, Tucson Electric Power, UniSource, and the Salt River Project have all signed on as "anchor" clients of the Desert Southwest Expansion. Because existing pipeline capacity in Arizona is at maximum, it is safe to assume that the explosion of methane powered data centers is predicated on increasing the overall supply of methane. In other words, a new gas pipeline leads to new gas power capacity, which leads to data center expansion.

Recently released Integrated Resource Plans (IRPs) from three major utility clients of the Desert Southwest Expansion offer a window into the role the pipeline could play in gas-powered data center expansion:

Utility	**Proposed Gas Power Additions**
Arizona Public Service	4,000 MWs
Tuscon Electric Power	300 MWs
UniSource	321 MWs

Source: Arizona Corporate Commission (ACC) submissions under Docket No. E-99999A-25-0058

These proposed gas expansions are illustrative of the effect that new pipelines can have on new gas power. But the real impact is if the pipeline is built would be much more severe. Pinnacle West, the parent company of Arizona Public Service, told investors in November that the project was essential for both announced and unannounced gas projects:

"The Desert Southwest Pipeline is certainly a critical infrastructure project to be able to fuel some of the incremental thermal generation that will be in service in the 2030s. The generation that we've already announced will take service from that pipe, but there's certainly additional capacity that we've contracted from the pipe to be able to support generation beyond the projects that we've announced" (Q3 2026 earnings call).

The good news is that Desert Southwest Expansion is far from a done deal. It still lacks crucial state and federal permits before it can proceed. But passing Senator Heinrich's permitting bill would strip communities, states and Tribes of crucial tools to protect themselves from fossil fuel and other projects. Indeed, BAAJA would favor the Desert Southwest Expansion project through several key changes by weakening the Clean Water Act, the National Environmental Policy Act, Endangered Species Act, National Historic Preservation Act, and other laws that safeguard the climate and public health.

Weakening Bedrock Protections to Lock-in Gas Pipelines

- **Clean Water Act (CWA)**: This bill would significantly weaken the CWA, our country's premier law to protect our waterways and public health from dangerous pollution. It limits states' and Tribes' authority to protect waterways from harmful proposed projects. This would rob incoming Governor Deb Haaland of a powerful instrument to protect communities from harmful projects. Much of the included provisions also severely weaken CWA protections by removing protections against certain discharges, making it easier for oil and gas industries to pollute waters. These sections severely restrict the Environmental Protection Agency's ability to stop fossil fuel projects from endangering sensitive areas and curtail the ability of courts to issue adequate remedies for violations. It also doubles the permit length from 5 to 10 years.

- **National Environmental Policy Act (NEPA)**: The legislation takes a sledgehammer to NEPA, a law that once fully ensured that the federal government adequately assessed all the risks to people and the planet before permitting a major new project. Under this new regime, NEPA reviews are circumvented, and in some cases, numerous projects are exempted from review altogether. It creates stringent and unrealistic deadlines on agencies to complete their NEPA processes. It also severely truncates the timeline to seek judicial review (from 6 years down to a meager 150 days), and it limits the public's ability, or standing, to seek judicial review of problematic decisions.

- **Endangered Species Act (ESA)**: The bill also targets the ESA, our nation's primary mode of protecting endangered and threatened species from extinction at the hands of polluters and other industries. Not only does the bill attack reliance on science in the ESA process, but it also tosses implementation to states instead of federal wildlife specialists, so there will be less resources and expertise devoted to the analysis. As has become standard throughout the bill, it also cuts the timeline for compliance and expands exemptions to ESA and severely truncates the timeline to seek judicial review of unlawful decisions (from 6 years to 150 days).

- **National Historic Preservation Act**: Finally, the bill silences and disempowers Tribes and First Nations by redefining what should receive heightened scrutiny under the National Historic Preservation Act, truncating the period of time for consultation, and limiting access to judicial review of projects under a law that is meant to protect, preserve, and mitigate the destruction of irreplaceable historic, culturally significant resources and places.

- **Project Certainty**: The bill's "project certainty" provisions put dirty industry above people and the planet. BAAJA ties future administrations' hands with regard to modifying or rescinding problematic permits with only very few exceptions, essentially attempting to lock-in projects approved during the Trump Administration. It also creates litigation risk and cost liability for the federal government and taxpayers if project certainty is threatened. These provisions allow polluters to sue the government for "disparate treatment" if an administration shifts away from coal, oil, and gas projects. This only serves to protect projects including coal and gas fired power plants, liquid natural gas terminals, hardrock mines, and gas pipelines.

What does this mean for the Desert Southwest Expansion?

Under current requirements, the Desert Southwest Expansion must undergo multiple layers of review and assessment with the federal government, including securing the Federal Energy Regulatory Commission's (FERC) approval after completion of an Environmental Impact Statement (the highest level of NEPA review). Prior to permitting, federal agencies must also be certain that the project does not jeopardize the continued existence of certain species or their habitat. And the public must be kept apprised of all decisions and given meaningful opportunities to weigh in every step of the way.

If enacted, BAAJA would ease the path for the Desert Southwest Expansion and other fossil fuel projects, ensuring a wave of data center proposals across the Southwest. The current administration already supports dismantling the NEPA process and removing opportunities for state-level public opposition. Indeed, it has already rolled back many important provisions of our bedrock environmental laws. And BAAJA would further erode the few protections we have left, while restricting communities' ability to weigh in on this and many other fossil fuel projects.



Image: Energy Transfer's project route for Desert Southwest Expansion.