Friday, October 23, 2026

Subject: Over 60 Washington and Oregon Organizations Oppose BAAJA and Demand Protection of Environmental Laws

Dear Senators Merkley, Wyden, Murray, and Cantwell and Representatives Dexter, Bynum, Salinas, Hoyle, Bonamici, Jayapal, Larsen, Smith, Randall, Glusenkamp Perez, Smith, Schrier, Strickland, DeBene,

As over 60 organizations representing tens of thousands of people across Oregon and Washington, we are writing to express our strong opposition to the Bipartisan American Affordability and Jobs Act of 2026. This bill is yet another attack on the Pacific Northwest's environmental justice communities and our world-renowned forests, coastline, high deserts, and rivers. This so-called "permitting reform" deal would strip communities of fundamental rights and weaken Tribal sovereignty and State governments' rights, while fast tracking gas pipelines, hyperscale data centers, and mining proposals. As leaders from Oregon and Washington, we are looking to you to lead opposition to this bill and fight any attempt in Congress to rollback bedrock environmental laws.

Weakening State and Local Authority

This bill would significantly erode authority from States and Tribal governments to protect our waterways. Section 401 of the Clean Water Act (CWA) is an important tool for States and Tribal governments to certify that a federally permitted project meets state and federal water quality laws. The bill would limit that authority for pipelines to direct discharges into waterways, preventing states from enforcing stronger standards or evaluating a project's other impacts on water quality. It would also require certification conditions to meet a "least burdensome" standard, rather than letting states set the standards they judge best for protecting water quality.[1]

In both Washington and Oregon, state agencies have found that federally permitted projects do not comply with state water quality laws. In 2017, Washington state denied Section 401 certification for the Millennium Bulk Coal Terminal[2], and in 2019, the state of Oregon denied this same certification for the Jordan Cove liquefied natural gas (LNG) export terminal and Pacific Connector Pipeline[3]. In addition to not complying with state water quality standards, both of

[1] Sec. 1202
[2] Statement on Millenium coal terminal ruling, *Washington Department of Ecology* (Aug 15, 2018) https://ecology.wa.gov/about-us/who-we-are/news/2018/statement-on-pollution-control-hearings-board-mill.
[3]Jordan Cove 401 Water Quality Certification Decision, *Oregon Department of Environmental Quality* (May 6, 2019) https://www.oregon.gov/deq/FilterDocs/jcdecletter.pdf.

these projects would have had significant impacts on the climate[4], and the health[5] and safety[6] of nearby communities.

Under the bill, Washington and Oregon would not be able to enforce our state laws protecting water ways and the onus would be on the state to provide evidence that no conditions could address the water quality violation, rather than a project developer proving they would not harm water quality.

Eroding Tribal Sovereignty

The bill also restricts Tribal Nations from engaging in the planning and execution of federally-connected projects by limiting Tribes' government-to-government relationship in permitting planning and decision-making, and wrongly diminishes the United States' treaty responsibilities and stewardship of public lands.[7] It also makes plain that the United States "may" consult with Tribal Historic Preservation Officers, making consultation, required under treaty law and based in constitutional frameworks of government-to-government relationships with Tribes, optional. This includes consultation for the federal alteration of or adverse effects to tribal lands, public lands, historical and cultural resources, and sacred sites.[8] Final determinations are deemed to satisfy the obligations of the Federal government and claims to challenge such determinations are subject to a punitively short 150 days as well as unreasonably strict criteria for standing.[9]

You must oppose legislation that weakens states and Tribal governments' authority to weigh in on projects that impact their communities and may violate their laws or rights. The authority of States and Tribal governments has never been more important to protect than now, as it is a critical backstop to the Trump administration's attacks on our communities.

Categorical Exemptions while Blocking Access to the Courts

This bill creates Categorical Exemptions from the National Environmental Policy Act (NEPA) for gas pipeline expansions. Section 2102 outlines a categorical exclusion under NEPA for gas pipeline repair, maintenance, replacement, upgrade, rebuilding, modification, optimization, minor

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[4] Jordan Cove LNG and Pacific Connector Pipeline Greenhouse Gas Emissions, *Oil Change International* (Jan 11, 2018) http://priceofoil.org/2018/01/11/jordan-cove-lng-and-pacific-connector-pipeline-greenhouse-gas-emission.

[5] Environmental review completed for largest proposed coal export terminal in North America, *Washington Department of Ecology* (Apr 28, 2017) https://ecology.wa.gov/about-us/who-we-are/news/2017/apr-28-environmental-review-completed-for-largest.

[6] Jess Burns, Jordan Cove LNG Plans Not Good Enough For People Or Environment, Oregon Says, *Oregon Public Broadcasting* (July 12, 2019) https://www.opb.org/news/article/jordan-cove-oregon-review-lng-natural-gas/.

[7] (Sec. 2301)

[8] (Sec. 2301)

[9] (Sec. 2301)

relocation, looping, compression, capacity-enhancement project, or addition to a covered facility.[10]

GTN Xpress, a pipeline expansion project opposed by Senators Murray, Cantwell, Merkley and Wyden,[11] did not require Clean Water Act 401 certifications through the states because it expanded existing compressor station capacity. NEPA was the only opportunity for people in Oregon and Washington to weigh in on this project: thousands of individuals, over 50 environmental, faith-based, public health, and social justice organizations, and the Columbia River Inter-Tribal Fish Commission submitted comments during the NEPA process for GTN Xpress. This bill would remove the only avenue for concerns to be raised about harmful projects like GTN Xpress.

This bill guts public participation under NEPA, the National Historic Preservation Act (NHPA), and the CWA, while imposing a 150-day deadline designed to shut communities out of court and silence Indigenous peoples and communities of color. The bill also restricts access to judicial review, directs courts to give agencies "substantial deference," and generally prevents courts from vacating or enjoining an authorization even after finding that it violates NEPA, instead requiring the court to send the decision back to the agency while the authorization remains in place.[12] Meanwhile, project developers get privileged access to the courts and powerful new remedies against the government. The package accelerates specified permitting litigation and elsewhere gives developers new avenues for injunctions, litigation costs, and economic damages. In this package, corporations get new tools to force projects forward, while communities harmed by those projects face new barriers to stopping them, even when it is an unlawfully issued permit.[13]

Greenlighting the Williams Pipeline and Data Center Proposals

Just one example of a pipeline that would be fasttracked if this bill moves forward is the proposed Williams pipeline through 156-miles on the Washington side of the Columbia River Gorge. Currently, this proposal would need CWA 404/401 certifications from Washington Department of Ecology for the project's river and stream crossings and to go through an environmental impact statement (EIS) process through NEPA. The project also has likely impacts on Tribal Cultural resources. New gas from this pipeline alone would emit 13.5 million metric tons of CO_2 per year and increase Washington's annual emissions by about 14 percent. The gas quantity for these projects is four and a half times the amount of gas as the GTN Xpress expansion, largely to feed demand for growing data centers' energy consumption.[14] This

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[10] Sec. 2102
[11] West Coast senators warn FERC not to approve 'flawed and unwanted' NW gas pipeline expansion, *KTVZ21* (Oct. 18, 2021), https://ktvz.com/news/oregon-northwest/2023/10/18/west-coast-senators-warn-ferc-not-to-approve-flawed-and-unwanted-nw-gas-pipeline-expansion/.
[12] (Secs. 1110 and 2301)
[13] (Sec. 1401)
[14] Williams' Pipe Dream, *Columbia Riverkeeper,* https://www.columbiariverkeeper.org/campaigns/williams-pipeline/.

pipeline expansion is a major financial risk that would lock our region into more fossil fuels for decades to come, and risks saddling ratepayers with stranded asset costs from the buildout of unnecessary, expensive infrastructure. If this legislation is passed, this new pipeline would undoubtedly be rubber-stamped by the federal government, while significantly limiting the rights' of communities, State and Tribal governments to protect cultural resources, clean water, air quality, the climate, and Washington's progress towards 100% clean energy.

Nationwide, the amount of gas generation being developed specifically to serve data centers has exploded from roughly 4 gigawatts in early 2024 to more than 189 gigawatts today.[15] Permitting reform will only accelerate this trend, adding to an already massive queue of gas projects.[16] The deal would further accelerate this buildout by streamlining permits for pipelines, transmission lines, and other infrastructure, weakening states' and Tribes' authority under Section 401 of the Clean Water Act, limiting federal review and opportunities to challenge projects in court, and thereby making it easier to build the gas infrastructure needed to power data centers. Oregon currently has at least 142 data centers in operation or planned, ranking it the 9th state in the US with the most data centers, and 10th Washington with 135 data centers in operation or planned.[17] This deal will strip communities of fundamental democratic rights while fast-tracking the hyperscale data center and fossil fuel projects that threaten us.

Mining on Public Lands

We are also gravely concerned with the package's regressive provisions on mining, especially as Oregon faces an increased amount of uranium and lithium mining proposals in the McDermitt Caldera.[18] The bill includes adding a statutory right in the 1872 Mining Law for the mining industry to design their own plans and permanently use an indefinite amount of public lands for waste dumps, roads, pipelines, or anything else deemed "reasonably incident to" mining operations.[19] This proposed statutory right holds even if the mining company is a foreign-owned conglomerate or if the public lands provide important recreational opportunities, wildlife habitat, cultural resources, or drinking water for communities.

According to the U.S. Environmental Protection Agency's Toxics Release Inventory, metal mining is the nation's #1 toxic polluter.[20] Mine waste contains toxic substances like arsenic,

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[15] Molly Taft, Data Centers Are Driving an Alarming Gas Power Expansion in the US, *WIRED* (Aug. 25, 2026), https://www.wired.com/story/us-data-centers-drive-gas-power-expansion/.

[16] Jenny Martos, Betting Big on Data Centers, U.S. Now Leads World for New Gas Power Development, *Global Energy Monitor* (Jan. 2026), https://globalenergymonitor.org/research/betting-big-data-centers-us-now-leads-world-new-gas-power-development.

[17] Skyler Skeets and Kaitlyn Radde, Most new data centers in the U.S. are coming to rural areas, *Pew Research Center* (April 13, 2026), https://www.pewresearch.org/short-reads/2026/04/13/most-new-data-centers-in-the-us-are-coming-to-rural-areas/.

[18] McDermitt Caldera, *Oregon Natural Desert Association*, http://onda.org/regions/owyhee-canyonlands/mcdermitt-caldera/.

[19] Sec 2215

[20] Toxics Release Inventory – What is it, *Earthworks,*

mercury, and cadmium that are harmful to public health and fish and wildlife when released into the environment.

We urge you to reject this deal, and to fight to protect Oregon and Washington communities from unchecked build out of gas pipelines, hyperscale data centers, and mining proposals. We urge you to oppose the Bipartisan American Affordability and Jobs Act of 2026. Our communities need their rights and their health protected, not gambled away as a gift to corporations.

Sincerely,

https://earthworks.org/issues/toxics_release_inventory_what_is_it/.

Pacific Northwest Regional:
Columbia Riverkeeper
Save Our Salmon
Wild Idaho Rising Tide

Oregon:
350 Deschutes
350 Deschutes
350 Eugene
350 Salem OR
350PDX
Association of Northwest Steelheaders
Bark
Beyond Toxics
Bikeloud PDX
Blue Mountains Biodiversity Project
Climate Writers
Coast Range Association
Making Earth Cool
NW Guides and Anglers Association
Oregon Conservancy Foundation
Oregon Data Center Defiance
Oregon Just Transition Alliance
Oregon PeaceWorks
Oregon Physicians for Social Responsibility
Oregon Rural Action
Oregon Unitarian Universalist Voices for Justice
People of Red Mountain
Portland Harbor Community Coalition
Portland Raging Grannies
Rogue Climate
Southern Oregon Climate Action Now
Stop Nuclear WorkGroup
Tank the Tanks, Linnton Neighborhood Association (Portland)
The Intertwine Alliance
WildEarth Guardians
XRPDX

Washington:
350 Seattle
350 Spokane
350wenatchee.org
Center for Responsible Forestry
Divest WA
Kettle Range Conservation Group
Legal Rights for the Salish Sea
Olympic Climate Action
Orca Conservancy
Puget Soundkeeper
Rootsong Ecology
Save Our Wild Salmon
Seven Generations Innovation
Snake River Savers
The Washington Bus
Tree Action Seattle
Vancouver Audubon Society
Voting Public
Washington AI Resistance
Western WA FOR Seattle Chapter

National Allies:
Climate Justice Alliance
Food & Water Watch
Institute for Policy Studies Climate Policy Program
Oil & Gas Action Network
Oil Change International
Port Arthur Community Action Network(PACAN)
Unitarian Universalists for Social Justice