The Wilderness Society

FACT SHEET | NOVEMBER 2026
S. 5653 and America's Public Lands

S. 5653: The Special Places the Permitting Bill Would Put at Risk

The Bipartisan American Affordability and Jobs Act

S. 5653 is pitched as a compromise to end the Trump administration's war on clean energy, and its transmission planning and grid-enhancing technology provisions have merit. But as drafted, it would lock in this administration's drilling, mining, data center and pipeline approvals on America's most treasured lands and waters, even unlawful ones. It would also shut Tribes and communities out of decisions and prevent future administrations from fixing mistakes or revisiting unlawful decisions. The Senate could take it up as soon as November 9.

Special places at stake

Arctic National Wildlife Refuge ALASKA
Seven unlawfully issued oil leases were canceled in 2023. Six have since been reinstated and five more issued. Sec. 1401 would bar any future administration from revisiting them or any others.

Western Arctic and Teshekpuk Lake ALASKA
The Biden administration in 2023 limited the Willow project to three drill pads instead of five. Sec. 1401 could have forced the administration to approve all five.

Gates of the Arctic ALASKA
The Biden administration rejected a road slicing across Gates of the Arctic National Preserve to a proposed massive open-pit mining project. But the Trump administration has reversed course. Secs. 1401 and 1402 could permanently lock in the road and mining.

Boundary Waters Canoe Area Wilderness MINNESOTA
The administration plans to revive Twin Metals' copper-nickel mineral leases upstream of the wilderness. Sec. 1401 could lock them in, and Sec. 2301 would sideline Tribes with treaty rights in the watershed.

Bears Ears and Grand Staircase-Escalante national monuments UTAH
The administration shrunk both by over 90%. Secs 1401 and 1402 could permanently entrench mining, oil, gas and coal approvals issued within the former boundaries.

Red Cliffs National Conservation Area UTAH
In January, the BLM reapproved a four-lane highway through threatened Mojave desert tortoise habitat. Sec. 1401 would block a future Administration from revoking that right-of-way.

Greater Chaco NEW MEXICO
The BLM has proposed revoking the 336,400-acre drilling buffer around this World Heritage Site, already ringed by an estimated 40,000 wells. Secs 1401 and 1402 could lock in leases permanently.

Grand Canyon region ARIZONA
With hundreds of active uranium mining claims inside Baaj Nwaavjo I'tah Kukveni National Monument, and 287,000+ acres of northern Arizona slated for oil and gas lease sales, Sec. 1401 could lock in any leases and permit approvals issued by this administration.

Thompson Divide and Roan Plateau COLORADO
In 2016, Interior canceled 33,000 acres of unlawful Thompson Divide leases; S. 5653 would bar that in the future. New parcels on the Roan Plateau are in a December sale over state objections. S.5653 could cement any sold parcels.

Castle Mountains National Monument CALIFORNIA
A proposal to expand a mine within Castle Mountains National Monument could be approved and locked in under this Administration.

Boulder City Data Center NEVADA
The BLM approved the first-ever data center on public land by swapping it for an approved solar project. An administrative board temporarily blocked the approval. But secs 1401 and 1402 could lock in such approvals, making data centers and energy rights-of-way permanent.

Northern Red Desert WYOMING
The administration is reopening the Rock Springs plan to expand development, which could be locked in under this bill once leased and permitted. Wyoming's 800,000+ acres of split estate lands could be drilled without federal permits.

Six threats in the bill, and their impacts

Provision	What it does	Impacts
1. Sec. 1401 Project certainty	Bars future administrations from revoking, suspending or modifying permits, leases and rights-of-way once issued, even unlawful ones. Companies can recover damages if an agency acts.	Would lock in authorizations, including Arctic Refuge leases, Twin Metals leases near the Boundary Waters, the Red Cliffs highway, rights-of-way issued for data centers or the Ambler Road, and any leases issued near Chaco.
2. Div. A, Title I NEPA	Five-month deadline to sue; only those who filed detailed comments and show "direct" harm can sue; more actions exempt from review; courts cannot halt projects that violate NEPA.	Every community fighting a bad decision, from Boulder City's data center appeal to Colorado's Roan Plateau, will be limited and will need to act immediately–even then, courts are barred from providing meaningful relief.
3. Sec. 2301 Historic preservation	Makes Tribal consultation under NHPA Section 106 effectively optional and narrows what counts as a culturally significant place.	Chaco, Bears Ears, the Grand Canyon region, and the Arctic could be irrevocably altered without meaningful consultation with — or deference to — Tribal nations who hold those lands sacred.
4. Sec. 2215 Mining	Lets mining companies occupy public land without valid mineral rights, without paying royalties and without full environmental review.	Lands overlaying mining claims in the Mojave and Death Valley, Arizona's copper country, Ash Meadows in Nevada and New Mexico's Upper Pecos could be used for waste disposal, roads, pipelines, and other infrastructure.
5. Sec. 1402 Project fairness	Lets developers sue for 50–100% of projected construction costs, plus damages, if approvals slow compared with prior years and compared to other types of projects.	Could block responses to disasters like the post-Deepwater Horizon offshore drilling pause. Would also lock in the Trump administration's approval trends, benefitting the President's preferred energy sources and land uses.
6. Sec. 2211 Split estate	Exempts oil and gas drilling on split-estate lands from federal permits, notice and bonding checks.	More than 4 million acres - led by North Dakota (1.5M+), Wyoming (800,000+), New Mexico (700,000+) and Colorado (600,000+) – could be drilled without a federal permit or the stakeholder engagement and bonding assurances that come with one.

Opposition is broad and growing

- **Tribal Nations:** the National Congress of American Indians and eight Tribal organizations asked Congress to withdraw the historic preservation changes, and New Mexico's 19 Pueblos unanimously oppose the bill.
- **Nine state attorneys general** from Arizona, California, Delaware, Illinois, Maine, Massachusetts, Oregon, Vermont, and Washington, warned the bill would weaken state authority to protect resources and communities.
- **Former White House climate adviser John Podesta** warned the certainty language hands the administration "a loaded howitzer" to go after public lands. 185 groups condemned its special treatment of AI data centers.

Tell your senators: Vote no on S. 5653

These places belong to all Americans and should be protected for future generations. The Senate should reject S. 5653 as written and keep them from being locked into decades of harm.

Take action: Call the Capitol switchboard at (202) 224-3121 and ask for your senators. Tell them to oppose S. 5653 before the Senate returns on November 9.

Learn more: 6 threats to public lands in the Bipartisan American Affordability and Jobs Act (The Wilderness Society, Oct. 15, 2026 - Updated November 2nd)