Dispelling myths about BAAJA:
the Bipartisan American Affordability and Jobs Act
S. 5653



Permitting reform is possible and needed.
We also need an honest discourse about what BAAJA would do—and sacrifice.

Western Environmental Law Center

Roadless Areas surrounding Newberry National Volcanic Monument. Photo: Gary Halvorson

BAAJA <u>WOULD NOT</u> "streamline environmental reviews." It <u>WOULD</u> undermine bedrock environmental laws and/or bypass them entirely, including: the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), National Historic Preservation Act (NHPA) and Clean Water Act (CWA). The bill would:

Substantially change NEPA, undermining its action-forcing purpose to avoid, minimize and mitigate harm by limiting the types of projects subject to environmental review, the utility of that review, letting developers to set the scope of reviews that they can write themselves, and eliminating opportunities for informed and meaningful public participation in projects that affect communities. Examples: White House East Wing, DC Arch, Alligator Alcatraz, former roadless areas.

Allow states to assume the federal function of analyzing the harm a project poses to listed species, injecting chaos into ESA species protection through varying state approaches, potentially threatening imperiled species.

Effectively eliminate states' and Tribes' ability to impose conditions on water permits to ensure protection of water quality and other resources. The bill would also double the term of water quality permits from five to 10 years, extending the timeline for scientific and/or technological fixes to emerging issues to at least a decade.

BAAJA <u>WOULD</u> lock in fossil fuels by:
Authorizing holders of permits issued after September 2026 to sue the government if a permit is revoked or altered to add conditions warranted by new information and to receive damages for economic harm paid out of the U.S. Treasury, bypassing Congressional oversight.

Including no upstream support for renewable energy to ensure future projects get to the permit stage, and in no way binds an unlawful administration from abusing the system in new or familiar ways.

Establishing a system to allow any future permittee to sue the government claiming "disparate treatment" of that industry sector in the percentage of permits authorized, over the prior five years, and receive damages up to the cost of construction for a project paid out of the U.S. Treasury. The Trump administration is right now establishing an overwhelming emphasis on fossil fuel permit approvals as the baseline for this section.

Binding future administrations from implementing policies favorable to renewable energy because executive branch statements along with a reduction in permit approvals is sufficient to prove disparate treatment.

Prioritizing fossil energy development throughout the bill.

BAAJA <u>WOULD NOT</u> achieve desired results on AI data centers because:
Yes, it would speed up grid connections and require data centers to pay for new generation and transmission to serve their electricity needs rather than forcing consumers to bear that cost.

However, because new sources of energy will not access the grid immediately, if at all, data centers would continue a massive buildout of behind-the-meter gas plants, often more economical than paying for new utility generation and grid connection.

BAAJA <u>WOULD</u> improve transmission by:
Including needed reforms to line planning and grid access that would allow energy sources currently in the queue to more quickly connect to the grid and transmission lines to expand to meet demand. These provisions as a stand-alone bill would resolve many current energy issues without gutting environmental laws or locking in fossil fuels.