AMIGOS BRAVOS ♦ BREATH OF MY HEART BIRTHPLACE ♦ CENTER FOR BIOLOGICAL DIVERSITY ♦ CENTER FOR CIVIC POLICY ♦ CITIZENS CARING FOR THE FUTURE ♦ DEVIL'S SPRING RANCH ♦ DINÉ CARE ♦ EARTHWORKS ♦ GILA RESOURCES INFORMATION PROJECT ♦ GREENLATINOS ♦ HEALTHY CLIMATE NEW MEXICO ♦ INSTITUTE FOR POLICY STUDIES CLIMATE STUDY PROGRAM ♦ NAEVA ♦ NEW MEXICO ACEQUIA ASSOCIATION ♦ NEW MEXICO CLIMATE JUSTICE ♦ NEW MEXICO ENVIRONMENTAL LAW CENTER ♦ NEW MEXICO INTERFAITH POWER AND LIGHT ♦ NEW MEXICO VOICES FOR CHILDREN ♦ NM NATIVE VOTE ♦ OIL CHANGE INTERNATIONAL ♦ PROGRESSIVE DEMOCRATS OF AMERICA – CENTRAL NEW MEXICO ♦ PROGRESSNOW NEW MEXICO ♦ PROSPERITY WORKS ♦ SAN JUAN CITIZENS ALLIANCE ♦ SOVEREIGN ENERGY ♦ THE GLOBAL WARMING EXPRESS ♦ THE SEMILLA PROJECT ♦ WESTERN ENVIRONMENTAL LAW CENTER ♦ WILDEARTH GUARDIANS

October 29, 2026

The Honorable Martin Heinrich
U.S. Senate

The Honorable Ben Ray Lujan
U.S. Senate

The Honorable Teresa Leger Fernández
U.S. House of Representatives

The Honorable Melanie Stansbury
U.S. House of Representatives

The Honorable Gabe Vasquez
U.S. House of Representatives

Dear Members of Congress:

The undersigned public interest organizations and entities are all located or work within New Mexico. We represent a wide array of values and interests from public land, cultural resource, wildlife, and river protection to climate action, economic diversification, ranching, and environmental justice. We write in strong opposition to the Bipartisan American Affordability and Jobs Act ("BAAJA") introduced in the U.S. Senate on September 30, 2026.

The BAAJA proposes radical changes to bedrock protections that have long served as a bulwark against the extraction and exploitation of New Mexico's lands, waters, and people. This includes lands and waters from the Permian Basin in southeast New Mexico to Greater Chaco in northwest New Mexico as well as Tribal communities who have called New Mexico home since time immemorial and acequias whose gravity fed irrigation systems are the lifeblood of the farms growing our state's food. We are alarmed by the permitting deal because it confers immense power to artificial intelligence data center developers, fossil fuel and renewables corporations, uranium mining companies, and other development interests. BAAJA also takes power away from the public and from future Presidents, subordinating the public interest to corporate interests.

We emphasize that data centers are the dominant form of expected corporate infrastructure that would benefit from BAAJA on any reasonably foreseeable timeline. Nationwide, more than 2,800 data centers powered by roughly 413 gigawatts of electricity are planned.[1] In New Mexico alone, 11

[1] https://cleanview.co/data-centers/us.

new data centers powered by roughly 13 gigawatts of electricity are planned.[2] While many of these planned data centers will never be built, many of the ones that will be built will be powered by fossil fuels, specifically fossil gas, risking U.S. decarbonization efforts and putting heightened pressure on New Mexico's federal public lands, state trust lands, Tribal lands, and private lands to produce fossil gas for data center use.

The Pennsylvania-Jersey-Maryland (PJM)[3] and Midcontinent Independent System Operator (MISO)[4] regional transmission organizations, for example, are now dominated by new fossil gas power generation, reflecting a nation-wide shift towards fossil gas power generation driven by AI data center demand. The Center for Energy and Environmental Analysis addressed this emergent reality, concluding in its assessment of BAAJA that:

> There is greater likelihood that BAAJA will produce the clean energy benefits that have been modeled, but those emissions benefits are relatively small. There are much larger potential emissions from the fossil fuel buildout, but there is a lower likelihood that BAAJA will be responsible for all of the fossil fuels growth in those scenarios. Nevertheless, the comparison shows that even a modest contribution in this direction could swamp the clean energy benefits.
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> These trade-offs are happening in the new context of surging demand [driven by data centers] for electric power. Newly built clean energy is now being used to meet new demand rather than displacing existing fossil fuel dependency, driving us further away from decarbonization goals.[5]

We understand that additional analyses now underway, such as by Resources for the Future, conclude that the BAAJA may reduce greenhouse gas emissions through 2041 relative to the status quo baseline.[6] This is not, however, reassuring; it is, instead, akin to an acknowledgement that BAAJA would merely run up the carbon credit card a bit slower than before—better than nothing, but not a compelling argument for a deal that would nonetheless still enable the emission of vast quantities of pollutants to the atmosphere, erode future policy optionality required to eliminate carbon debt and its accrued interest, and sacrifice New Mexico's interwoven natural and cultural heritage. BAAJA, by fixating on corporate infrastructure, technology, and markets, is not a step forward towards but, rather, a surrender of U.S. climate ambition that sacrifices our interests and values.

We take this moment to remind you that we cannot address the climate crisis by sweeping aside the imperative of ecological protection, equity and justice, and democracy itself. As NatureServe found in 2022, 34% of plants and 40% of animals are at risk of extinction, and 41% of ecosystems are at risk of range-wide collapse.[7] These living systems are essential to a thriving, resilient future. And yet they are now at risk, not only across the U.S., but in New Mexico. We simply cannot support BAAJA

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[2] https://cleanview.co/data-centers/new-mexico.

[3] https://kevinjkircher.com/what-energy-infrastructure-are-people-trying-to-build/.

[4] https://kevinjkircher.com/what-power-plants-are-people-trying-to-build-miso-edition/.

[5] https://ceea.us/what-models-tell-us/.

[6] https://www.rff.org/publications/issue-briefs/projected-effects-of-the-bipartisan-american-affordability-and-jobs-act-on-the-power-sector/.

[7] https://www.natureserve.org/bif.

given that it falsely pits infrastructure development against the imperative to protect New Mexico's communities, lands, waters, and wildlife.

Greater Chaco, the Upper Pecos Watershed, the Permian Basin, and New Mexico's 1.6 million acres of Roadless wildlands are already at grave risk of harm because of the Trump administration's rabid implementation of its Project 2025 playbook and the historical but ongoing legacies of extractive capitalism. So too are people and lands in McKinley and Cibola Counties threatened by the resumption of uranium mining, including at the Roca Honda uranium mine on Mount Taylor—a landscape sacred to the Diné and multiple Pueblo and other Indigenous communities.

BAAJA would only compound these threats by eroding longstanding protections afforded by the Clean Water Act (CWA), Endangered Species Act (ESA), National Environmental Policy Act (NEPA), and National Historic Preservation Act (NHPA). For example:

- Section 1102 excludes the vast majority of fossil gas pipeline expansion and upgrade projects from NEPA environmental review.

- Section 1110 would deprive the public of the ability to seek and achieve justice in federal court. Federal courts would no longer hold the power to vacate permits found to have failed to take a hard look at impacts, consider reasonable alternatives, or otherwise violate NEPA or the NHPA. BAAJA would also deprive federal courts of their power to prevent irreparable harm, including an injunction if needed, for violations of NEPA and the NHPA.

- Section 1202 would hollow out state and Tribal CWA authority to certify federal licenses and permits to protect New Mexico's water resources.

- Section 2301 would radically weaken the NHPA Section 106 Tribal consultation process by rendering it permissive and confined to artificial deadlines, by weakening the requirement that the federal government notify Tribal nations before decisions are made, and by narrowing the scope of what the NHPA protects contrary to how Tribes understand and protect sacred sites.

These statutory erosions are alarming. But arguably even more alarming are the BAAJA's "permit certainty" provisions in Sections 1401–1402. Section 1401, while ostensibly designed to counteract the Trump administration's obstruction of renewables projects, is poorly crafted and would be weaponized by fossil fuel and other extractive corporate interests to stockpile permits and other federal approvals during the pendency of the Trump administration. Section 1401 would also deprive future Presidents of the power to unwind the harms those permits and approvals would cause, including by restoring, strengthening, and then enforcing public health and environmental safeguards against Trump-era permits and approvals. Section 1402 would amplify these harms by hobbling the ability of future Presidents to shape technology, energy, and finance markets to serve the public interest. It does so by prohibiting the "disparate treatment" of different energy sources, legally obliging the federal government to accommodate fossil fuels, compromising action to speed the energy transition and protect people and place.

As Harvard Law Professor Jody Freeman wrote, BAAJA's permit certainty provisions are "structurally designed to lock in and subsidize natural gas and other fossil projects over cleaner renewables for years to come, using the courts and taxpayer dollars."[8] Similar concerns have been raised by others in the legal and academic community, including a former general counsel of the

[8] https://lnkd.in/p/gimkyb9Y.

Council on Environmental Quality and former attorneys with the U.S. Department of Justice who have highlighted BAAJA's "unprecedented approach to punitive damages" that could provide developers with an immense, uncapped windfall at the public's expense.[9]

These concerns are illustrative, not exhaustive, to demonstrate our alarm that BAAJA bulldozes over people and place. BAAJA is, fundamentally, a 417-page bill crafted behind closed doors that is now being rushed through a lame duck session. We have also heard, repeatedly, that the bill's sponsors will not entertain anything beyond ministerial and technical amendments. Given these facts, we see no reasonable pathway to fix this fatally flawed bill, even as some of the undersigned groups may be engaged in good-faith efforts to mitigate the harm this bill, if passed into law, would cause.

We thus respectfully make two requests. First, we urge you to oppose BAAJA. Second, we urge you to reset the policy conversation to ensure that Congress does not, as BAAJA does, pit the imperative to build green infrastructure against the imperative to protect people and place.

We look forward to your response.

Sincerely,



Erik Schlenker-Goodrich
Executive Director
Western Environmental Law Center

On behalf of:

Rachel Conn
Executive Director
Amigos Bravos

Haley Jones
Organizer
Citizens Caring for the Future

Beata Tsosie
Organizational Director
Breath of My Heart Birthplace

Don Schreiber
Owner
Devil's Spring Ranch

Gail Evans
NM Climate Director
Center for Biological Diversity

Robyn Jackson
Executive Director
Diné C.A.R.E.

Lan Sena
Chief Strategy Officer
Center for Civic Policy

Andrew Forkes-Gudmundson
Senior Manager for State Policy
Earthworks

[9] https://www.linkedin.com/pulse/what-punitive-damages-doing-baaja-matthew-littleton-mhm2e/.

Allyson Siwik
Executive Director
Gila Resources Information Project

Carlos Matutes
New Mexico State Director
GreenLatinos

Ashley Proud
Executive Director
Healthy Climate New Mexico

Seneca Johnson
New Mexico Fellow
Institute for Policy Studies Climate Policy Program

Ahtza Chavez
CEO
Naeva

Paula Garcia
Executive Director
New Mexico Acequia Association

Anni Hanna
Director
New Mexico Climate Justice

Dr. Virginia Necochea
Executive Director
New Mexico Environmental Law Center

Rev. Clara Sims
Assistant Executive Director
New Mexico Interfaith Power and Light

Gabrielle Uballez
Executive Director
New Mexico Voices for Children

Ahtza Chavez
Executive Director
NM Native Vote

Allie Rosenbluth
US Campaign Manager
Oil Change International

Lora A. Lucero
PDA-CNM Co-Leader
Progressive Democrats of America - Central New Mexico

Lucas Herndon
Policy Director
ProgressNow New Mexico

Ann Lyn Hall
CEO
Prosperity Works

Mike Eisenfeld
Energy and Climate Program Director
San Juan Citizens Alliance

Mayane Barudin
Executive Director
Sovereign Energy

Genie Stevens
Executive Director
The Global Warming Express

Emmet T. Yepa
Government Affairs Coordinator
The Semilla Project

Rebecca Sobel
Climate & Health Program Director
WildEarth Guardians

Cc: The Honorable Chuck Schumer

The Honorable Hakeem Jeffries

The Honorable Sheldon Whitehouse