October 30, 2026

The Honorable Jeff Merkley The Honorable Ron Wyden

Sub: Oregon environmental conservation groups oppose S. 5653 – the Bipartisan American Affordability and Jobs Act ("BAAJA")

Dear Senators

The undersigned 30 environmental organizations are all based in or work within Oregon. We represent a wide array of values and interests, from public lands, cultural resources, wildlife, and river protection, to climate action, economic diversification, and environmental justice. On behalf of our hundreds of thousands of members and supporters in Oregon, ***we strongly oppose the Bipartisan American Affordability and Jobs Act ("BAAJA") introduced into the U.S. Senate on September 30, 2026***.

The BAAJA proposes radical changes to bedrock public health, cultural resource, and environmental protections that have long served as a bulwark against the extraction and exploitation of Oregon's lands, waters, and people, including Tribal communities who have called Oregon home since time immemorial. In so doing, the BAAJA confers immense power to artificial intelligence data center developers, fossil fuel, renewables, and logging corporations, and other infrastructure developers to subordinate the public interest to corporate interests. The BAAJA also guts public participation, a core value of Oregonians, most recently demonstrated in Oregonians' overwhelming opposition to the Trump administration's proposed repeal of the Roadless Rule. Removing opportunities for the public to weigh in on decisions impacting public lands, clean air and water, species protections and climate during the most anti-conservation federal administration in history is a betrayal of transparency and democratic values.

While proponents of the BAAJA tout the legislation for potential clean energy benefits, it is clear that the benefits to data centers, fossil fuel, mining and other extractive industries dwarf any support for renewable energy development, and at the cost of bedrock environmental laws. Data centers are the dominant form of expected corporate infrastructure to benefit from the BAAJA on any reasonably foreseeable timeline. Nationwide, more than 2,800 data centers powered by more than 413 gigawatts of electricity are planned.[1] In Oregon, there are 111 operational facilities, most of them East of the Cascades, and 32 data centers currently under construction or in the planning phase.[2] An August 2026 poll by Portland-based DHM Research found that **73% of Oregonians** oppose tax breaks for data centers, **71%** oppose the warehouses themselves, and **66% to 68%** support a temporary statewide moratorium on new facilities.[3] While many planned data centers will never be built, those that are will be powered by fossil fuels, specifically methane gas with diesel generator back-up, risking U.S. decarbonization efforts. 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.[4]

Recklessly building out infrastructure with an acute disregard for people and place presents

[1] https://cleanview.co/data-centers/us.
[2] https://www.wweek.com/news/2026/09/18/one-half-of-oregon-is-crawling-with-data-centers/.
[3] https://www.opb.org/article/2026/08/04/oregon-data-centers-polling-data/.
[4] https://ceea.us/what-models-tell-us/.

cumulative risk to Oregonians and Oregon's public lands, including Bureau of Land Management and U.S. Forest Service-managed federal public lands that are home to imperiled species, most of our remaining old-growth forests and the headwaters of our river systems that provide clean drinking water to communities across the state. These risks affect not only public lands, but the state's inestimable network of watersheds and wildlife habitat, as well as the public health and economic vitality of our communities that depend on healthy, intact ecosystems.

Oregonians have a proven history of resisting expanded fossil fuel infrastructure, including the 15-year-long successful effort to stop the proposed Jordan Cove LNG terminal and Pacific Connector pipeline, six proposed coal export projects, Bradwood Landing LNG, and several additional proposed methane gas pipelines. The resistance to these disastrous projects required the very public engagement opportunities BAAJA would shrink or remove altogether. It also required that environmental decision making be based on the best available science, not ignore developing information.

We take this moment as a reminder 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.[5] These living systems are essential to a thriving, resilient future. And yet they are now at risk, in Oregon and across the U.S. We simply cannot support BAAJA given that it falsely pits infrastructure development against the imperative to protect Oregon's communities, lands, waters, and wildlife.

The BAAJA seeks to speed permitting while ignoring that the Trump administration has gutted staff at the very agencies tasked with environmental review. While we understand the need to build out renewable power generation and transmission capacity, the BAAJA's concessions to fossil fuels and other corporate interests, and the total dismantling of bedrock environmental laws and public processes, is alarming and unnecessary. The BAAJA ***erodes 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 would exclude the vast majority of fossil gas pipeline expansion and upgrade projects from NEPA environmental review.

§ Section 1106 would silence the public by codifying if not expanding the Trump administration's limits on public participation. The public could be excluded entirely from Environmental Assessment (EA)-level environmental review processes. With Environmental Impact Statement (EIS)-level processes, the public would still be offered an opportunity to comment on the proposed action at the scoping stage, before project details are known, but could be denied the ability to review and provide comment on the draft EIS.

§ Section 1110 would deprive the public of the ability to seek and achieve justice in federal court. It deprives federal courts of 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. Further, the BAAJA deprives federal courts of their power to fashion a remedy to prevent irreparable harm, including an injunction if needed, for violations of NEPA and the NHPA.

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

§ Section 1202 would hollow out state and Tribal CWA authority to certify federal licenses and permits to protect Oregon's natural resources.

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

Arguably even more alarming are the BAAJA's "permit certainty" provisions in Sections 1401-1403. Section 1401, while ostensibly designed to address the Trump administration's obstruction of renewables projects, is poorly crafted and would be weaponized by extractive corporate interests to stockpile permits and other federal approvals during the remainder of the Trump administration and to thereby deprive future presidents of the ability to unwind the harm those permits and approvals cause. Particularly extreme is the fact that Section 1401 would even prohibit future presidents from applying restored or modernized substantive and procedural regulatory protections to Trump-era permits and approvals. Section 1402 would amplify these adverse harms by chilling if not outright 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 any particular energy source. In other words, the federal government would be legally obliged to fossil fuels and other extractive industries, compromising action to speed the energy transition and protect people and place.

This list of concerns is illustrative, not exhaustive. We provide it to demonstrate our alarm that the BAAJA bulldozes over—and does not respect or reflect—our values and interests. Given that this 417-page bill was crafted behind closed doors and is now being rushed through a lame duck session, we see no reasonable pathway to fix this fatally flawed bill, even as some of the undersigned groups are engaged in good-faith efforts to mitigate the harm this bill would cause. We thus urge you to oppose the BAAJA and reset the policy debate to ensure that Congress does not pit the imperative to build green infrastructure against the imperative to protect people and place.

Thank you for taking our concerns into consideration. We urge that you oppose the BAAJA for the irreparable harm it will bring to Oregon's lands, waters and wildlife, and Oregonians who depend on them.

Sincerely,

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