October 23, 2026

VIA EMAIL

The Honorable Martin Heinrich
The Honorable Ben Ray Luján
The Honorable Teresa Leger Fernández
The Honorable Melanie Stansbury
The Honorable Gabe Vasquez

Re: Opposition to BAAJA as introduced—Protect Tribal sovereignty, New Mexico's waters, sacred places, public lands, and communities

Dear Senators Heinrich and Luján and Representatives Leger Fernández, Stansbury, and Vasquez:

We, the undersigned Tribal organizations and allied partners, oppose the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA), S. 5653, as introduced. The bill would weaken Tribal consultation, dismantle essential environmental and cultural protections, restrict Tribal and state authority to protect water quality, diminish opportunities for stakeholder involvement and public input, and would likely cause irreversible harm to Indigenous communities.

BAAJA, intended as a response to permitting challenges for clean energy projects, would also come at the environmental, health, and social cost of expedited fossil fuel and mineral extraction. Its devastating consequences would reach across New Mexico—from Greater Chaco and Mount Taylor to the Pecos watershed, and from acequia and land grant communities to neighborhoods confronting large-scale data center development.

Tribal Nations were not consulted in the development of legislation that would fundamentally change how their sacred places and cultural heritage are identified, evaluated, and protected. That exclusion is unacceptable. Congress should not rewrite the processes through which sovereign Tribal governments defend their cultural survival without their meaningful involvement from the outset of legislative drafting.

The All Pueblo Council of Governors has adopted a resolution opposing the bill as introduced. We support that position and urge the delegation to respond with clear opposition and concrete action. The concerns extend beyond the historic-preservation title. Removing that title alone would leave other provisions threatening environmental review, public participation, and effective legal remedies.

1. **Respect Tribal sovereignty and protect living sacred landscapes.**

Tribal consultation must occur early enough to influence project location, design, alternatives, and approval. It must respect the inherent sovereignty and self-determination of Tribal Nations, including cultural protocols and authority over sensitive knowledge. This bill includes several provisions touted as benefits for Tribes; however, if enacted, BAAJA would assault Tribal sovereignty and dilute the consultation process.

Under current law, properties of "traditional and cultural importance to an Indian Tribe" may be eligible for the National Register, requiring federal agencies to consult with Tribes who hold those properties as significant. BAAJA would narrow the projects, properties, and effects considered under Section 106 of the National Historic Preservation Act, impose short response windows, and allow agencies to proceed without Tribal participation.

Under BAAJA, federal law and agencies would define sacred places, not Tribal Nations themselves. The bill's current language also further narrows such properties to "district, site, building, structure, or object" and "artifacts or material remains." Sacred places are not limited to individual structures or archaeological sites. Mountains, springs, ancestral roads, gathering areas, and ceremonial landscapes would lack certainty of protection, harming the relationships Tribes hold with cultural properties that extend across generations and jurisdictional boundaries. Narrowing review to a project's immediate footprint or limiting consideration of indirect and cumulative harm risks making those relationships invisible in federal decisions.

BAAJA also directly threatens Tribal Historic Preservation Offices and programs, which could face funding suspensions and federal assumption of functions under specified circumstances. Congress should address chronic capacity shortages through sustained funding, rather than penalizing Tribal governments for failing to meet accelerated development schedules.

Finally, BAAJA could permit a project to continue, even if a court finds an agency violated the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act (NHPA) is one of the key places where federal law respects the inherent sovereignty and self-determination of Tribal Nations. The Section 106 process is just one component of permitting processes, and only a small minority of projects result in litigation. Permitting reform should not be at the expense of Tribal sovereignty, the sanctity of the NHPA, or sacred landscapes.

2. **Preserve Tribal and state authority to protect clean water under the Clean Water Act.**

BAAJA would make it harder for Tribes and states to require water protections before a federally-permitted project moves forward. It would narrow which protections they rely on and make them carry a heavier burden of proof.

Section 401 gives states and EPA-authorized Tribes authority to condition or deny certification for federally permitted activities that threaten water quality. BAAJA would make it harder for Tribes and states to use their own water protection laws to require safeguards before federal permits are issued. The Pueblo of Isleta's successful defense of its EPA-approved water-quality standards demonstrates why enforceable Tribal water protections matter. In City of Albuquerque v. Browner (1996), the court upheld standards of protecting the Pueblo's uses of the Rio Grande, including ceremonial uses, with consequences for federal permitting of Albuquerque's upstream wastewater discharge.

The bill would require "clear and convincing evidence" that certification conditions are necessary, are the "least burdensome" means of ensuring compliance, and are consistent with the federal permit. Denials

would require demonstrating that no modification or reasonable condition could achieve compliance. These requirements would make it harder for Tribes to prevent harm to their waters.

BAAJA would also limit certification for specified interstate transmission and natural-gas projects to direct point-source discharges and cap review at nine months. Congress must preserve meaningful Tribal and state authority to protect water quality, cultural uses, fisheries, and drinking water before development proceeds.

3. **Recognize the consequences for acequias, land grants, and public lands throughout New Mexico.**

New Mexico's communities depend on interconnected watersheds and landscapes. Development on federal land can affect downstream drinking water, irrigation supplies, agricultural livelihoods, wildlife, recreation, and access to places used for cultural and traditional practices.

Acequia associations, land grant communities, rural water systems, farmers, and small local governments often have limited staff and resources to evaluate complex proposals. Shorter review periods and more restrictive legal procedures can make participation impractical, particularly for those who must live with a project's immediate and long-term consequences.

The distinct rights of these communities and those of sovereign Tribal Nations must be respected. All have a stake in a federal process that provides adequate information, meaningful opportunities to influence decisions, and enforceable protections. Public lands sustain community life and livelihoods; decisions about their use must account for those responsibilities.

4. **Protect Greater Chaco before damage becomes irreversible.**

Greater Chaco is a living cultural landscape extending far beyond Chaco Culture National Historical Park. Its ancestral communities, roads, shrines, and ceremonial relationships remain significant to Pueblo, Diné, and other Tribal peoples.

BAAJA does not itself revoke the Chaco mineral withdrawal. However, if the administration succeeds in revoking Public Land Order 7923, the bill could weaken the consultation, environmental review, and legal remedies available for subsequent leasing and development. Restrictions on considering landscape-scale effects could degrade the setting and cultural integrity of Chaco even when development avoids individual documented sites.

The delegation's commitment to Chaco must include defending the laws and processes that make protection possible. We urge you to advance permanent protections while rejecting legislation that would undermine them.

5. **Protect Mount Taylor and communities facing renewed uranium development.**

Mount Taylor is a sacred landscape whose significance cannot be separated into isolated sites or individual permit boundaries. Renewed uranium development raises serious questions about groundwater, springs, cultural use, public health, and the lasting consequences of extraction.

The proposed Roca Honda uranium project illustrates these concerns. The Forest Service has initiated a new environmental impact statement addressing mining and associated infrastructure across federal, state, and private lands. The proposal includes mine dewatering and discharge of treated water into the Rio San Jose. These activities require careful evaluation of connected water and cultural impacts.

For a project spanning multiple jurisdictions, narrowing federal review risks leaving important relationships and consequences inadequately examined. BAAJA's restrictions on cultural review and judicial remedies could make it harder for Tribes and neighboring communities to secure meaningful consideration of harm before development proceeds.

New Mexico's experience with uranium extraction demands rigorous scrutiny of new proposals. Congress should must strengthen the ability of affected communities to protect their water, health, and sacred places.

6. **Defend the Pecos watershed and prevent expanded mining impacts on public lands.**

The Pecos watershed sustains drinking water, acequia agriculture, cultural traditions, recreation, and local businesses. The 1991 mine-waste spill demonstrated how damage originating at one location can extend downstream and require decades of cleanup. The delegation has recognized these stakes through its support for the Pecos Watershed Protection Act.

BAAJA's Section 2215 would authorize additional mining mill-site claims on eligible public lands for waste disposal and related operations, subject to an approved plan. Although it preserves existing withdrawals, it could facilitate larger mining footprints on lands open to mining. Combined with weakened review and remedies, this raises concerns for vulnerable watersheds.

We ask you to apply the same commitment you have shown to protecting the Pecos when evaluating this bill. Communities should not have to defend their headwaters with fewer opportunities to identify risks, influence decisions, or seek timely relief.

7. **Address data center development without sacrificing water, affordability, or community oversight.**

New Mexicans are demanding answers about the water consumption, electricity demand, air emissions, noise, and infrastructure costs associated with large data centers. These concerns encompass the power generation, transmission lines, pipelines, and other facilities built to support them.

Where federal approvals are involved, BAAJA's broader review changes could weaken scrutiny of data centers and their supporting infrastructure. State and local approvals would remain relevant, but they do not replace federal responsibilities.

The bill includes provisions intended to protect other electricity customers from data-center transmission costs. Those measures do not resolve questions about water availability, pollution, cultural resources, or community participation.

Before projects proceed, communities deserve transparent information about water sources and consumption, energy requirements, infrastructure costs, and enforceable developer obligations. Congress should require developers to bear the costs they create and preserve rigorous review of environmental and cultural impacts. Promises of economic development must be evaluated in consideration of long-term demands on New Mexico's water, land, and communities.

8. **Preserve the ability to prevent harm and hold agencies accountable.**

Restrictions on judicial review and injunctive relief can allow construction to proceed while the legality of an approval remains unresolved. For a sacred place or a vulnerable watershed, a favorable ruling after damage occurs may provide little practical protection.

The bill's provisions limiting changes to approved projects compound this concern. Agencies must retain the ability to correct unlawful decisions and respond to serious risks. Communities must retain meaningful access to courts before damage becomes irreversible.

We appreciate Senator Luján's longstanding work to protect Chaco and the delegation's advocacy for the Pecos watershed. We ask you to carry those commitments into this debate. The same waters, sacred landscapes, and communities you have worked to defend could face greater risks under a permitting system that diminishes review and accountability.

We therefore request that the delegation:

1. **Publicly oppose BAAJA as introduced** and withhold support unless its threats to Tribal sovereignty, environmental protection, and community participation are fully addressed and incorporated into S. 5653.
2. **Remove Division B, Title III's historic-preservation amendments** and reject harmful review and judicial-remedy provisions elsewhere in the bill.
3. **Preserve Tribal and state authority under Clean Water Act Section 401,** including the ability to impose protective certification conditions and deny certification when water-quality requirements cannot be met.
4. **Consult directly with Tribal governments before developing replacement language**, and meaningfully engage acequia associations, land grant communities, rural communities, and other affected New Mexicans.
5. **Defend Greater Chaco, Mount Taylor, the Pecos watershed, and other vulnerable landscapes**, including through permanent protections and rigorous review of proposed mining and energy development.
6. **Preserve robust scrutiny of data centers and their supporting infrastructure**, with enforceable water protections, transparency, and safeguards against shifting costs to residents.
7. **Improve permitting through sustained funding, adequate staffing, early coordination, and support for responsibly sited, community-serving infrastructure.**

New Mexicans deserve affordable energy, reliable infrastructure, clean water, healthy communities, and protection of the places that sustain our cultures and livelihoods. Permitting legislation must advance those goals together.

Please provide a prompt written response identifying your position on BAAJA and the specific actions you will take to address these concerns.

Sincerely,

Sovereign Energy
Mayane Barudin, Executive Director
mayane@sovereignenergy.org

Honor Our Pueblo Existence
Marian Naranjo, Executive Director
marose74@gmail.com

Pueblo Action Alliance
Julia Bernal, Executive Director
Julia@puebloactionalliance.org

Three Sisters Collective
Christina Castro PhD, Executive Director
message@3sc.com

My Native Sisters' Fire Inc.
Ashley Sarracino, Executive Director
nativeascension@gmail.com

Tó Nizhóní Áni "Sacred Water Speaks"
Nicole Horseherder, Executive Director
nicole@tonizhoniani.org

MatriARC PROJECTion, LLC
Andrea Everett, Owner
matriarcprojection@gmail.com

Tiwa Women's Circle (T'ai'u Hlioran Hurini)
Andrea Everett, Operations Director
taiuhliorahurini@gmail.com

Naeva
Ahtza Chavez, CEO
Ahtza@Naeva.org

Navi Pin Haa Un Muu/ Breath of My Heart Birthplace
Beata Tsosie , Organizational Director
beata@breathofmyheart.org

Tribal Energy Alternatives
Tanksi Clairmont, Tribal Co-Executive Director
tclairmont@gridalternatives.org

Diné Center for Research and Evaluation (DCRE)
Hazel James Tohe, San Juan Coordinator
hazbah4nm@gmail.com

NM Native Vote
Ahtza Chavez, Executive Director
Ahtza@nmnativevote.org

Native Organizers Alliance Action Fund
Judith LeBlanc, Executive Director
judith@nativeorganizing.org

Counselor Chapter Health Impact Assessment Committee
Teresa Seamster, EdS
ctc.seamster@gmail.com

Youth United For Climate Crisis Action (YUCCA)
Adrastos Da Silva, Director
info@yuccanm.org

Southwest Native Cultures
Terry Sloan, Director
tas@sloanco.net

Laguna Acoma Coalition for a Safe Environment (LACSE)
Naya Marie Anllo-Valdo, Co-Chair
nanllovaldo@gmail.com

Torreon Community Alliance
Mario Atencio, Executive Director
torreon.community.alliance@gmail.com

Tewa Women United
Corrine Sanchez, Executive Director
corrine@tewawomenunited.org

Multicultural Alliance for a Safe Environment
Ava Curtis, Environmental Justice Coordinator
acurtis@swuraniumimpacts.org

Amigos Bravos
Rachel Conn, Executive Director
rconn@amigosbravos.org

Center for Biological Diversity
Gail Evans, New Mexico Climate Director
gevans@biologicaldiversity.org

Center for Civic Policy
Lan Sena, MHA, Chief Strategy Officer
Lan@civicpolicy.com

Chaco Alliance
Anson Wright, Coordinator
ansonw@comcast.net

Citizens Caring for the Future
Haley Jones, Organizer
haley@ccffnm.org

Concerned Citizens for Nuclear Safety
Joni Arends, Director
ccns@nuclearactive.org

Counselor Chapter Health Impact Assessment Committee
Teresa Seamster, EdS
ctc.seamster@gmail.com

Earth Care
Miguel Acosta and Bianca Sopoci-Belknap, Co-Directors
info@earthcarenm.org

Earthworks
Lauren Pagel, Policy Director
lpagel@earthworksaction.org

Gila Resources Information Project
Allyson Siwik, Executive Director
grip@gilaresources.info

GreenLatinos New Mexico
Carlos Matutes, State Director
carlosmatutes@greenlatinos.org

GRID Alternatives
Daniel Pontón Aronoff, Interior West Policy Manager
dponton@gridalternatives.org

New Energy Economy
Mariel Nanasi, Executive Director
mariel@newenergyeconomy.org

New Mexico Climate Justice
Anni Hanna, Director
nmclimatejustice@gmail.com

New Mexico Environmental Law Center
Dr. Virginia Necochea, Executive director
vnecochea@nmelc.org

New Mexico No False Solutions
Feleecia Guillen, Coalition Organizer
nmnofalsesolutions@gmail.com

New Mexico Voices for Children
Gabrielle Uballez, Executive Director
guballez@nmvoices.org

Plum Village Community of Engaged Buddhism
Nomi Green, Dharma teacher
Nomipgreen@gmail.com

Prairie Dust Films
Suree Towfighnia, Director
Suree44@gmail.com

Prosperity Works
Ann Lyn Hall, CEO
annlyn@prosperityworks.net

San Juan Citizens Alliance
Mike Eisenfeld, Energy and Climate Program Director
mike@sanjuancitizens.org

Southwest Research and Information Center
Chris Shuey, Director, Uranium Impact Assessment Program
sric.chris@gmail.com

The Uncivilized Outdoorsman LLC
Vidal Gonzales, Founder/Owner
vidalbaseball@gmail.com

Western Environmental Law Center
Erik Schlenker-Goodrich, Executive Director
eriksg@westernlaw.org

WildEarth Guardians
Rebecca Sobel, Climate & Health Director
rsobel@wildearthguardians.org

New Mexico Interfaith Power and Light
Desirée Bernard, Executive Director
desiree@nm-ipl.org

CC:

Governor Michelle Lujan Grisham
Commissioner Stephanie Garcia Richard, New Mexico State Land Office
All Pueblo Council of Governors