November 24, 2026

Speaker Mike Johnson
Minority Leader Hakeem Jeffries
Chair Bruce Westerman, Natural Resources Committee
Ranking Member Jared Huffman, Natural Resources Committee
Chair Bruce Guthrie, Energy and Commerce Committee
Ranking Member Frank Pallone, Energy and Commerce Committee
Chair Jim Jordan, Judiciary Committee
Ranking Member Jamie Raskin, Judiciary Committee
United States House of Representatives
Washington, DC 20515

cc: All U.S. House Members

Re: The Bipartisan American Affordability and Jobs Act of 2026 (S. 5653 / H.R. 2347): Twelve Most Harmful Provisions That Should Not Become Law

Dear Speaker Johnson; Minority Leader Jeffries; Chairs Westerman, Guthrie, and Jordan; and Ranking Members Huffman, Pallone, and Raskin:

We write as scholars of energy, environmental, and administrative law who have spent our careers studying how the nation's environmental laws work in agencies, in courts, and on the ground. We are not political advocates. We support building clean energy and transmission quickly.

But the Bipartisan American Affordability and Jobs Act (BAAJA) would inflict permanent, sweeping damage on the nation's core environmental laws (and on the people and environment they are designed to protect). Whatever modest emissions reductions its transmission reforms may deliver cannot justify the rollback that comes with them. And the public debate over this legislation fails to note many of the most harmful provisions buried within the bill's 614 pages. Most commentary focuses on alternative energy and transmission benefits, even though the principal beneficiaries of the bill are AI data centers and fossil fuel industries.

At a minimum, a bill raising such complex factual, procedural, and policy questions demands the collection of evidence through hearings, markups, committee reports, and considerable floor debate. The final Senate manager's amendment did nothing to allay concerns about the bill's hasty push to passage and the array of harms the bill would cause if signed into law.

Why the House Should Reject BAAJA

1. **It fast-tracks data centers and the other biggest polluters.** Data centers, gas pipeline expansions, and other major polluters could be built with little scrutiny of their harms — weeks after voters approved 46 of 47 ballot measures to restrict polluting hyperscale data centers. If the largest proposed data center gas plants are built, nine of the country's ten largest power plants would serve data centers. Already, the largest data centers in the U.S. have a carbon footprint almost equal to the country of Denmark. BAAJA could also facilitate construction of data centers on federal public lands.

2. **It does not increase affordability.** Its name promises affordability and jobs. The evidence does not. The most-cited modeling projects household electricity savings of only $50 to $78 a year — about $1 to $1.50 a week — and not until 2040.

3. **It puts projects above the law.** Projects approved in violation of environmental and historic preservation law could be built anyway. Projects could be shielded not only from judicial oversight, but also from future pollution control standards or other protections that would otherwise be available to minimize the harms caused to communities.

4. **Taxpayers would pay developers, not the other way around.** Developers could collect 50 to 100 percent of construction costs from taxpayers by showing a substantial rise in denials for their type of project. Developers could also sue to force fast approvals, while affected communities could not get a court to pause a project for violating environmental review or historic preservation law.

5. **Recent reforms are already working.** The median time to complete an environmental impact statement fell to 2.2 years in 2024, 28 percent faster than in 2020. Further cuts buy little speed at the price of decades of harm to communities.

6. **It is a template for anti-regulatory assaults far beyond the environment.** Its limits on judicial remedies serve as an alarming model that this or any president could use to insulate unilateral actions in immigration, public health, education, consumer finance, voting and civil rights. Indeed, reports emerged on November 11 that White House Chief of Staff Stephen Miller plans to push permitting reform as a major strategy. BAAJA would unquestionably weaken Congress' and courts' ability to check such tactics.

The Core Tradeoff

BAAJA is sold as a climate compromise. It is nothing of the kind. It trades near-term, concrete, and often irreversible harms from fossil fuel and data center industries for limited renewable energy benefits that are distant, modest, and uncertain.

The bill would also make it easier to destroy wetlands that shield low-income Gulf Coast communities from storm surge, and harder for anyone to stop such destruction in court. In exchange, decades from now, those same communities might be spared somewhat worse flooding from emissions that BAAJA may only partially reduce.

The climate case does not rescue the bill. Even the most favorable modeling includes a scenario in which the bill leaves emissions roughly where they are today. That modeling assumes liquefied natural gas (LNG) exports 8 to 15 percent higher without counting their emissions, and it projects pipeline construction up to 34 percent above recent levels. It makes no attempt to price in the gutting of the National Environmental Policy Act (NEPA), the Clean Water Act, and the Endangered Species Act. Every pipeline built under this bill locks in decades of emissions. The climate benefits are backloaded and contingent. The harms would begin the day the bill is signed.

Transmission reform is not worth this price, particularly when federal legislation already gives the Federal Energy Regulatory Commission backstop authority to site transmission lines in national interest corridors when states withhold or delay approval. See 16 U.S.C. § 824p.

The Twelve Most Harmful Provisions

The following is a list of the twelve most harmful provisions in BAAJA, including procedural tactics designed to undercut regulatory effectiveness. More details on what each provision does, who it harms, and why it matters are included in an appendix to this letter.

1. "Forever Permits" (Section 1401)
2. A Taxpayer-Funded Windfall for Developers (Section 1402)
3. No Remedy for a Proven Violation (Section 1110)
4. Closing the Courthouse Doors (Section 1110)
5. Exempting Gas Pipeline Expansions from Review (Sections 1102 and 2102)
6. Letting Developers Define the Question and Freezing the Science
7. Review by Exception: Categorical Exclusions and State Substitution
8. Hobbling State and Tribal Water Quality Authority (Clean Water Act Section 401)
9. Easier Wetland Destruction (Clean Water Act Sections 402 and 404)
10. Weakening the Endangered Species Act
11. A Fast Lane for Gas-Powered Data Centers
12. Sidelining Tribal Nations and Sacred Places (National Historic Preservation Act)

A Process Unequal to the Stakes

A bill that would permanently restructure judicial review, Tribal consultation, and state water quality authority demands a sufficient record to be rational. This one has none: no hearing, no markup, no committee report, and almost no opportunity for consideration of amendments. It rides on H.R. 2347, an unrelated tax bill. The 575 federally recognized Tribal Nations and the public had roughly two days to absorb a 494-page substitute before the November 9 cloture vote in the Senate. Courts, not Congress, will be left to decide what it means. A new Congress takes office on January 3, 2027. Waiting a few weeks costs little; enacting this text could cost a decade.

Our Request

The bill is now with the House. We urge you to offer and support floor amendments that eliminate the 12 problems identified above, beginning with Sections 1401 and 1402, the NEPA remedy and judicial review provisions, the provisions allowing state consultations to substitute for federal NEPA and Endangered Species Act reviews, and the historic preservation title. Absent incorporation of at least these twelve amendments, we ask you to vote no on advancing and passing the bill. At a minimum, please support sending the bill to committee for hearings, gathering of evidence, and genuine consultation with Tribal Nations and other potentially affected communities.

During debate in the Senate, thousands of Americans called and wrote their senators in opposition to BAAJA. The Senate acted in haste. The House still has time to act with care.

We would welcome the opportunity to brief you or your staff on any of these issues.

Respectfully submitted,

Alejandro E. Camacho, Professor of Law, UCLA School of Law

Robert L. Glicksman, J. B. and Maurice C. Shapiro Professor of Environmental Law, The George Washington Law School

William L. Andreen, Research Professor Emeritus, University of Alabama School of Law

Craig Anthony (Tony) Arnold, Boehl Chair in Property & Land Use, Professor of Law & Urban & Public Affairs, Director, Resilience Justice Project, University of Louisville

Joshua Ash, Director, Environmental Law & Policy Clinic, University of Pittsburgh School of Law

Jay Austin, Senior Attorney, Environmental Law Institute

Hope Babcock, Georgetown University Law Center

Scott Wilson Badenoch, Jr., Esq., MDR, former Co-Chair of the Environmental Justice Committee, American Bar Association, and former Visiting Scholar, Environmental Law Institute

Paul Schiff Berman, Walter S. Cox Professor of Law, The George Washington University Law School

Michael C. Blumm, Jeffrey Bain Faculty Scholar & Professor of Law, Lewis & Clark Law School

John Bonine, Professor Emeritus, University of Oregon School of Law

Karrigan S. Bork, Professor of Law, UC Davis School of Law

Margaret Warigia Bowman, Professor of Law, University of New Mexico School of Law

Rebecca Bratspies, Oliver Houck Chair in Environmental Law, Tulane Law School

Michael Burger, Executive Director, Sabin Center for Climate Change Law, Columbia Law School

Maxine Burkett, Emerson Collective Professor and Faculty Director of the Stanford Center of Just Environmental Futures, Stanford University

Wil Burns, Co-Director, Institute for Responsible Carbon Removal, American University

Kevin Cassidy, Professor of Law, Vermont Law & Graduate School

David N. Cassuto, Professor of Law, Elisabeth Haub School of Law at Pace University

Kiran Chawla, Fellow, University of Chicago Law School

Madison Condon, Professor of Law, Boston University School of Law

Christophe Courchesne, Associate Professor of Law and Director of the Environmental Law Center, Vermont Law and Graduate School

Caroline Cox, Assistant Professor, Boston College Law School

Mark S. Davis, Robert C. Cudd Professor of Environmental Law, Tulane Law School

Seth Davis, Professor of Law, University of California, Berkeley School of Law

Joseph W. Dellapenna, Retired Professor of Law

John Dernbach, Professor Emeritus, Widener University Commonwealth Law School

Holly Doremus, James H. House and Hiram H. Hurd Professor of Environmental Regulation, Berkeley Law

Tim Duane, Professor Emeritus of Environmental Studies, University of California

Ann Eisenberg, Patrick D. Deem Professor of Law, West Virginia University College of Law

Adam M. Finkel, Sc.D., Adjunct Clinical Professor, Environmental Health Sciences, University of Michigan School of Public Health

Jeremy Firestone, Professor Emeritus, School of Marine Science and Policy, University of Delaware

Robert Fischman, George P. Smith, II Distinguished Professor of Law, Indiana University Maurer School of Law

Victor B. Flatt, Coleman P. Burke Chair in Environmental Law, Case Western Reserve School of Law

Abigail Fleming, Associate Director, Environmental Justice Clinic, University of Miami School of Law

William Funk, Distinguished Professor of Law Emeritus, Lewis & Clark Law School

Steve C. Gold, Professor of Law and Judge Raymond J. Dearie Scholar, Rutgers Law School

Carmen G. Gonzalez, Morris I. Leibman Professor of Law, Loyola University Chicago School of Law

Sara Gonzalez-Rothi, Visiting Assistant Professor, Elisabeth Haub School of Law at Pace University

Emily Griffith, Clinical Supervising Attorney, UC Berkeley Environmental Law Clinic

James M. Grijalva, Friedman Professor of Law and Director of the Northern Plains Indian Law Center, University of North Dakota School of Law

Michael Hamersky, Executive Director, Pace Energy and Climate Center

Emily Hammond, Professor of Law, The George Washington University

Sharon Jacobs, Professor, UC Berkeley School of Law

Cale Jaffe, Professor of Law, General Faculty, University of Virginia School of Law

Kirk W. Junker, Kline School of Law, Duquesne University

Seema Kakade, Professor of Law, University of Maryland Carey School of Law

Sam Kalen, IU McKinney Family Chair in Environmental Law, IU McKinney School of Law

Bradley C. Karkkainen, Professor Emeritus, University of Minnesota Law School

Madeline June Kass, Distinguished Scholar, Seattle University School of Law, and Professor Emeritus, Thomas Jefferson School of Law

Alice Kaswan, Professor Emerita, University of San Francisco School of Law

Christine A. Klein, Professor of Law Emerita, University of Florida Levin College of Law

Harold J. Krent, Professor of Law, Chicago-Kent College of Law

Katrina Kuh, Haub Distinguished Professor of Environmental Law, Elisabeth Haub School of Law at Pace University

Renée M. Landers, Professor of Law, Suffolk University Law School

Stephen Lee, Chancellor's Professor of Law, University of California, Irvine School of Law

Miranda Leppla, Director, Environmental Law Clinic, Case Western Reserve University School of Law

Albert Lin, Professor of Law, UC Davis School of Law

Anna Mance, Assistant Professor of Law, SMU Dedman School of Law

Jennifer Marlow, Associate Professor, Cal Poly Humboldt

Sarah Matsumoto, Associate Professor of Clinical Law, University of Colorado Law School

Thomas O. McGarity, William Powers, Jr. and Kim L. Heilbrun Chair in Tort Law, University of Texas School of Law

Nazune Menka, Assistant Professor of Law & Faculty Director, NW Center for Indigenous Law, Seattle University School of Law

Heather Merfeld, Pro Tem Instructor, University of Oregon School of Law

Andrew Mergen, Emmett Assistant Clinical Professor of Environmental Law, Harvard Law School

Francine Miller, Senior Staff Attorney/Adjunct Faculty, Center for Agriculture and Food Systems, Vermont Law and Graduate School

Monte Mills, Charles I. Stone Professor of Law, University of Washington School of Law

Anthony Moffa, Professor of Law, University of Maine School of Law

Seymour Moskowitz, Emeritus Professor of Law, Valparaiso Law School

Kali Murray, Professor of Law, Marquette University Law School

Terrence Neal, Assistant Clinical Professor of Law, Duke University School of Law

Michelle B. Nowlin, Clinical Professor of Law, Duke University

Catherine O'Neill, Affiliate Professor of Law, University of Washington School of Law

Todd D. Ommen, Executive Director of John Jay Legal Services, Elisabeth Haub School of Law

Uma Outka, Leo S. Brenneisen Distinguished Professor, University of Kansas School of Law

Nadine Padilla, Associate Professor of Law, University of New Mexico School of Law

Patrick Parenteau, Professor of Law Emeritus, Vermont Law and Graduate School

Cymie R. Payne, Professor of Human Ecology and Law, Rutgers University

Heather E. Payne, Carter C. Kissell Professor in Law, The Ohio State University Moritz College of Law

Brooke Pinkham, Staff Director, Seattle University School of Law Northwest Center for Indigenous Law

Zygmunt Plater, Adjunct Faculty, University of Maine Law, and Professor Emeritus, Boston College Law School

Jamie Pleune, Associate Research Professor of Law & Wallace Stegner Fellow, University of Utah

Claudia Polsky, Clinical Professor of Law, UC Berkeley School of Law

Ann Powers, Professor Emerita of Law, Elisabeth Haub School of Law at Pace University

Melissa Powers, Jeffrey Bain Faculty Scholar & Professor of Law, Lewis & Clark Law School

Ethan Prall, Postdoctoral Research Associate, Princeton University

Alan Ramo, Professor Emeritus, Golden Gate University School of Law

Richard Reibstein, Senior Lecturer, Environmental Law and Policy, Boston University

John C. Reitz, Professor Emeritus, University of Iowa College of Law

Heidi Gorovitz Robertson, Professor, Cleveland State University College of Law

Michael Robinson-Dorn, Myron and Sonya Glassberg Chair in Environmental Law Director, Environmental Law Clinic, UC Irvine, School of Law

Jason Robison, Jerry H. Housel/Carl F. Arnold Distinguished Professor of Law, University of Wyoming College of Law

Daniel Rohlf, Professor of Law and Of Counsel, Earthrise Law Center at Lewis & Clark Law School

Jonathan Rosenbloom, Distinguished Professor of Law, Albany Law School

Rachel Rothschild, Assistant Professor of Law, University of Michigan Law School

Douglas Ruley, Director, Environmental Justice Clinic, University of Miami School of Law

John C. Ruple, Research Professor of Law & Wallace Stegner Fellow, University of Utah

Erin Ryan, Charles L. and Ramona I. Hilliard Professor of Law, University of Southern California, Gould School of Law

Stephanie L. Safdi, Clinical Associate Professor of Law, Yale Law School

Jim Salzman, Donald Bren Distinguished Professor of Environmental Law, Bren School of Environmental Science & Management, UCSB, and UCLA School of Law

Matthew J. Sanders, Assistant Professor of Law and Co-Director, Environmental Law Clinic, Stanford Law School

Wyatt Sassman, Associate Professor of Law, University of Denver Sturm College of Law

Maria Savasta-Kennedy, Clinical Professor of Law, UNC School of Law

Scott Schang, Professor of Practice and Director of the Environmental Law and Policy Clinic, Wake Forest University School of Law

Sarah Schindler, Professor of Law, University of Denver Sturm College of Law

Britton Schwartz, Adjunct Professor of Law, Santa Clara University School of Law

Sid Shapiro, Frank U. Fletcher Chair in Law, Wake Forest University School of Law

Amy Sinden, I. Herman Stern Professor of Law, Temple University Beasley School of Law

Deborah A Sivas, Luke W. Cole Professor of Environmental Law, Stanford Law School

Susan Lea Smith, Professor Emeritus, Willamette University Law

William Snape, American University Washington College of Law

Mark Squillace, Raphael J. Moses Professor of Natural Resources Law, University of Colorado Law School

Mark Templeton, Clinical Professor of Law, University of Chicago Law School

Robert R.M. Verchick, Gauthier - St. Martin Eminent Scholar and Chair in Environmental Law, Loyola University New Orleans College of Law

Clifford J. Villa, Professor of Law, University of New Mexico School of Law

Marcela Eliana von Vacano, Deputy Director, UC Berkeley Environmental Law Clinic

Megan Wachspress, Associate Professor of Law, University of San Francisco

Daniel E. Walters, Professor of Law, Texas A&M University School of Law

David A. Westbrook, Louis A. Del Cotto Professor and Director, NYC Program in Business and Law, University at Buffalo School of Law (SUNY)

Lindi Mutius Widell, Director, Environmental Justice Clinic, and Visiting Professor of Law, Vermont Law & Graduate School

Annecoos Wiersema, Professor of Law, University of Denver Sturm College of Law

Douglas R. Williams, Professor of Law, Saint Louis University School of Law

Chris Winter, Executive Director, Getches-Wilkinson Center for Natural Resources, Energy, and the Environment at the University of Colorado Law School

Hannah Wiseman, Professor of Law, Penn State Dickinson Law, and Professor, Penn State College of Earth and Mineral Sciences

Sandra B. Zellmer, Professor, University of Montana School of Law

Sonya Ziaja, Associate Professor, University of Baltimore School of Law

** Institutional affiliations are listed for identification purposes only and do not represent the views of any institution.*

Appendix: Details on the Twelve Most Harmful Provisions

1. “Forever Permits” (Section 1401)

What it does. Agencies could not revoke, suspend, or materially alter almost any federal permit in effect on or after November 6, 2026, or otherwise “interfere with” a permitted project. The main exception requires an “immediate, specific, urgent, substantial, and proximate” harm based on information never considered in the original review.

Why it matters. A facility that proves far more dangerous than its permit assumed would be effectively untouchable. The amendment's added word “immediate” would exclude long-term risks such as elevated cancer risk. Former EPA staff warn that, even as amended, the provision could block Clean Air Act rules and enforcement against existing sources. NRDC concludes it would benefit fossil fuel, mining, and data center projects more than clean energy, and the amendment's new savings clause and catch-all exception only invite litigation. This is a “first president to act wins” rule: it locks in today's permitting choices and ties the hands of the next administration.

2. A Taxpayer-Funded Windfall for Developers (Section 1402)

What it does. Developers could sue the United States if permits for their type of project are denied in bad faith or unreasonably delayed as part of a deliberate pattern of disparate treatment, measured against the prior 10 years without regard to predictable changes in operations, impacts, and context. A substantial rise in denials itself counts as evidence of bad faith. A winning developer could recover 50 to 100 percent of expected construction costs from the Judgment Fund, plus damages and fees.

Why it matters. A single claim could exceed the roughly $40 billion paid on all Judgment Fund claims over the past decade. The ten-year baseline locks in whatever permitting pattern came before, including years in which agencies favored fossil fuel projects and stalled clean energy, so the provision is skewed toward a massive public subsidy for fossil fuel projects. The amendment's tweaks leave that structure intact. Facing such exposure, no agency will dare say no.

3. No Remedy for a Proven Violation (Section 1110)

What it does. Even when a court finds that an agency violated NEPA, it could not vacate the approval or halt the project, which would proceed while the agency redoes its work.

Why it matters. Communities could win in court and still watch the bulldozers arrive. A right without a remedy is no right at all. This removes any incentive for developers or agencies to comply. The remand becomes a largely token paperwork exercise: Section 1401 sharply restricts changes to the permit based on its redone review, and the bill sets no consequence if the second review is no better than the first. As former federal appeals court judge David Tatel has emphasized, claims that plaintiffs can sidestep these limits and seek injunctions under the Administrative Procedure Act are unfounded, because the bill reaches claims brought “under any provision of Federal law.” These limits go far beyond even the Supreme Court's *Seven County* decision. In 2021, a court forced FERC to reconsider the climate and environmental justice

impacts of two LNG terminals near low-income communities in Brownsville, Texas. Under this bill, that victory would be meaningless.

4. Closing the Courthouse Doors (Section 1110)

What it does. The bill imposes a 150-day filing deadline, limits suits to commenters who can show "direct harm," and requires courts to give agencies "substantial deference."

Why it matters. Under-resourced communities and Tribal Nations, which often learn of a project's consequences late, would be shut out first. The premise that litigation drives delay is a myth: plaintiffs challenge roughly 1 in 450 agency NEPA actions. Deferring to agencies invested in a project regardless of its environmental impacts ignores the very reason Congress enacted NEPA.

5. Exempting Gas Pipeline Expansions from Review (Sections 1102 and 2102)

What it does. The bill declares that work on existing interstate gas pipelines, including looping, new compression, and capacity expansions, is not a "major Federal action" requiring environmental review, or an "undertaking" under historic preservation law. It also exempts a wide range of federally funded projects.

Why it matters. Pipelines and compressor stations are routinely routed through environmental justice communities; in one review described by the Congressional Research Service (CRS), 83.7 percent of a pipeline route crossed them. Pipelines are not a NEPA bottleneck. Their median review takes about 15 months, compared with about 34 months for transmission. Exempting expansions of the fossil fuel infrastructure that already moves fastest does nothing for clean energy and silences the communities most affected.

6. Letting Developers Define the Question and Freezing the Science

What it does. Agencies must drop any alternative that does not meet the developer's goals and may ignore science published after the very beginning of the review process.

Why it matters. Alternatives analysis is how agencies find a less harmful route away from a school, a water supply, or a neighborhood. This bill lets developers define it out of existence. Freezing the science means new evidence of health risks could lawfully be ignored. No evidence has been offered that either practice causes meaningful delay.

7. Review by Exception: Categorical Exclusions and State Substitution

What it does. The bill dramatically expands categorical exclusions as a means of avoiding meaningful NEPA review and lets agencies combine and borrow them. It also exempts projects reviewed under any state or Tribal process that the agency deems similar.

Why it matters. Categorical exclusions involve no public comment, so communities lose notice and a voice. About 95 percent of NEPA reviews are already categorical exclusions. Combined exclusions invite piecemeal approval of projects whose cumulative impacts are never reviewed. State substitution leaves residents of states with weak laws the least protected.

8. Hobbling State and Tribal Water Quality Authority (Clean Water Act Section 401)

What it does. States and Tribes could impose conditions only to meet water quality requirements. Each condition must be proven by "clear and convincing evidence" to be necessary and the "least burdensome" option.

Why it matters. States and Tribes are often the only governments positioned to protect local rivers and fisheries from federally licensed pipelines and dams. A clear-and-convincing burden effectively bars precautionary protection whenever the science is still developing, and it shifts power permanently to project sponsors.

9. Easier Wetland Destruction (Clean Water Act Sections 402 and 404)

What it does. The bill expands nationwide dredge-and-fill permits and sets a 150-day deadline to challenge them. It bars courts from vacating or halting unlawfully issued permits absent an "imminent and substantial danger," and it doubles discharge permit terms to 10 years.

Why it matters. For coastal and riverine communities, wetlands are a critical natural buffer against storm surge. Nationwide permits let projects destroy them without individualized review, and 10-year permits delay updating pollution limits to reflect new information. No evidence has been offered that any of this is needed for clean energy. Trading away wetlands guts the climate adaptation on which coastal states depend.

10. Weakening the Endangered Species Act

What it does. The bill redefines "best scientific data available" to end the practice of giving imperiled species the benefit of the doubt, eliminating the statute's precautionary and protective thrust—what Chief Justice Burger described as the statute's fundamental call for "institutionalized caution." It also allows states—many of which have limited expertise and resources devoted to non-game species—to take over the consultation process from expert federal agencies. The bill also imposes strict consultation deadlines that are likely to yield superficial reviews.

Why it matters. Extinction is irreversible, and data on rare species are often incomplete, so demanding certainty before protection reverses the Act's precautionary logic. States may have a stake in proposed actions, so consultations delegated to states may result in less objective evaluations. The bill's harm to listed species extends to the ecosystems, fisheries, and Tribal subsistence practices that depend on these species. It comes just as climate change is accelerating the rate of species extinctions.

11. A Fast Lane for Gas-Powered Data Centers

What it does. Beyond making large data centers pay their own grid costs and offering communities voluntary technical assistance, the bill does nothing to regulate their local harms. Instead, its pipeline-expansion exclusions, broader wetland permits, forever permits, and bar on injunctions clear a fast lane for the gas plants that increasingly power them. Section 2108 also opens wholesale markets to behind-the-meter generators of up to 5 megawatts each, which could include aggregated on-site gas units.

Why it matters. Neighbors bear the air pollution, water consumption, and round-the-clock noise. Earthjustice and the Better Data Center Project have identified 177 gigawatts of planned on-site gas generation for data centers, more than half of it using less efficient, more polluting generators. If the nine largest proposals are built, nine of the ten largest power plants in the country would be data center gas plants. None of the emissions analyses the sponsors cite accounts for them.

12. Sidelining Tribal Nations and Sacred Places (National Historic Preservation Act)

What it does. When identifying historic properties, agencies need only solicit Tribal input and need not consider anything received after 30 days. Formal consultation begins only after the agency has drawn the review boundaries and made its findings. Agencies may then close review by finding that the harm would not make a site ineligible for the National Register, or by deciding in their "sole discretion" that other considerations outweigh preservation. The bill also exempts most federally funded projects, raises the threshold for finding adverse impacts on historic and cultural resources, and requires courts to defer to agencies.

Why it matters. Tribal sacred sites often lie far outside reservation boundaries and are known only through Tribal knowledge; early consultation is how agencies learn that a route would cross a burial ground. Reducing early consultation to a 30-day information request, on deadlines Tribes did not set, treats sovereign nations as mere stakeholders, and betrays the federal trust responsibility. The manager's amendment did not fix this. The National Congress of American Indians (NCAI) reports that it still lets the Advisory Council on Historic Preservation stand in for Tribal Historic Preservation Officers. The National Trust for Historic Preservation calls the title deeply flawed, and eleven Tribal organizations have asked Congress to strike it entirely.