RENO-SPARKS INDIAN COLONY
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October 22, 2026

Honorable Catherine Cortez Masto
309 Hart Senate Office Building
United State Senate
Washington, DC 20510

Honorable Jacky Rosen
713 Hart Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Cortez Masto and Senator Rosen,

Let me begin by saying how much we at the Reno-Sparks Indian Colony have always appreciated your advocacy, friendship and leadership over the years. All the tribes in Nevada are extremely fortunate that both of our Senators and their staff are always there when we need your help.

I must express my great dismay at the language contained in S. 5653, the recently released permitting bill entitled the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA). We realize this was not a bill of your making. It is very difficult to comprehend this complex bill with hundreds of pages of technical and legalistic changes to essential and longstanding laws, but what we have read and understood is completely unacceptable. For a bill that will so profoundly affect the most important environmental statutes in the history of United States to have been negotiated in secret, behind closed doors and then released, and for the country to be told it will be taken to the Senate floor a few weeks later is both shocking and unfair. What happened to the fundamental concept of transparency when governing? How can such a bill not have a hearing or markup on the language therein? If it is such a great bill, why is the process such that there will be no real opportunity for public scrutiny?

We understand the need to create more energy in this country, and we understand that the present permitting process is too slow but to suggest that the only way in which the process can be made more efficient is to gut environmental laws and my tribe's sovereignty is nonsense. Anyone following this issue can see that the lobbyists for the energy companies had tremendous influence on what went into S. 5653 but Indian country and advocates for clean water and the environment had little to none. The changes proposed to the National Historic Preservation Act, the Clean Water Act, the Endangered Species Act, the National Environmental Policy Act, and the Federal Power Act go far beyond what is needed to make permitting more efficient, rather they bulldoze over those statutes leaving us out of the process and/or further ensuring that the energy developers will prevail in court every time. It is ironic that they complain that there is presently too much litigation slowing down the permitting process when much of the changes being proposed will generate new

litigation; it will simply be on their terms with those of us wishing to protect our right to clean air and water and sacred sites greatly handcuffed.

Of great concern to the Reno-Sparks Indian Colony are the proposed changes to the National Historic Preservation Act (NHPA) totally undermining the deliberate actions of previous Congress's that give Indian tribes an active role in preserving historic and cultural sites. The bill limits and creates exemptions for important definitions, such as "undertaking," "effect," and "area of potential effects," and greatly reduces when the Section 106 review process is triggered – cultural landscapes, sacred waterways, and traditional gathering areas do not stop at arbitrary right-of-way borders. This reduces opportunities for tribes to be involved in federal decision making to assist in cultural reviews. The bill would ensure that federal agencies are no longer required to notify the public or seek their views before making decisions about historic properties, meaning consultation is no longer mandatory under Section 106 and federal decisions would only be known after they are final. Agencies would no longer be required to consider historic properties identified after an undertaking is initiated, so only previously identified or listed properties can be considered. It would institute a 150-day statute of limitations, attempts to limit standing, forcing a Tribal Nation to assert substantive objections to a federal agency's Section 106 report within only 30 days of receipt, and creates additional burdens for litigating tribes. Tribal Historic Preservation Officers (THPOs) are already vastly underfunded, and this bill would not provide the needed resources for us to comply with all these new requirements. Overall, the NHPA changes in the bill amount to a near total gutting of the NHPA and reverses the wise and just choice Congress made to bring Tribal Nations into the national preservation program, in 1966 when the NHPA was signed into law and in 1992 when the law was updated and strengthened tribal sovereignty by creating THPOs, mandating federal consultation on traditional religious and cultural sites, and establishing preservation technology and training programs. We know that the National Association of Tribal Historic Preservation Officers has announced its strident opposition to the NHPA changes, and we agree with their assessment that the legislation undermines tribal sovereignty and is an "egregious violation of the federal government's trust and treaty responsibilities." We ask that the Senate remove the NHPA title from the bill and instead consult and work with tribes on changes that will actually improve the historic preservation review process and protect our rights.

Section 401 of the Clean Water Act (CWA) allows states and tribes (with Treatment as State status) to protect water quality. Among the many proposed changes to the CWA that will reverse progress being made to clean up waterways is language in S. 5653 that shifts the burden to states and tribes to meet high evidentiary standards and limits the scope of review to a narrow set of impacts. Conditions can only be imposed if they meet a standard of clear and convincing evidence and recommend the least burdensome option. The bill greatly weakens state and tribal authority by delegating more to the federal government and will lead to developers challenging state and tribal water quality standards. It also significantly curtails judicial review.

S. 5653 does great damage to the ability of tribes to utilize the Endangered Species Act to protect fisheries and other flora and fauna that are important to us by allowing states to take over federal Section 7 consultations, including states that disclaim expertise in the subject matter and have no consulting protocols with tribes. It allows states to provide data while not providing similar authority to tribes and authorizes biological opinion challenges only to the DC Federal Court of Appeals, eliminating the long-standing expertise that may exist at the closer Federal District Courts and burdening the DC Court of Appeals with all cases in the nation. It also weakens "best scientific and commercial data available" standard and shortens Section 7 consultation deadlines, while carving out an automatic exemption for right-of-way transportation projects that eliminates consultation entirely.

We also oppose provisions in the bill proposing to amend the National Environmental Policy Act (NEPA) to remove "special expertise" as a basis for serving as a cooperating agency—the very ground on which many Tribes have earned a seat at the table, and where Tribes can still participate, input is confined to issues deemed reasonable. The measure would also severely limit consideration of Tribal environmental and cultural analysis into NEPA process, thereby restricting Tribal participation. It also deletes a "major federal action" carve-out previously included in the CEQ regulations for Tribally approved projects on trust or restricted land, meaning that rather than deferring to Tribal sovereign decision-making on Tribal lands, projects on Tribal lands would require federal environmental review. Collectively the amendments to NEPA fall into the death by a thousand cuts category where cumulatively, it will become an impotent statute.

Senators, it is difficult to summarize all our concerns about a 417-page bill that makes huge changes to environmental laws that we and you have supported for years. I am attaching an analysis by the Native American Rights Fund that is itself 19 pages, but its length is necessary to understand how this bill would impact tribes, including those in Nevada where environmental matters and fish and wildlife protection are so important to us. Every day we are seeing new analyses showing problems with the bill as would be expected in a product on which the public had no input. We are aware that there are amendments being proposed particularly to the CWA and NHPA sections of S. 5653 that would make it nominally less onerous, but that is a pretty low bar. The Congress should not rush to enact this legislation during the lame duck session. If it truly is a bi-partisan bill that would benefit the country then it can withstand public review, hearings and scrutiny. We hope that a consensus will develop among like-minded senators that this bill is not ready for action by the Senate. If that is not possible, it needs to be significantly amended to ensure the environment, lands, waters, fisheries, animals, sacred sites, treaty rights and the trust responsibility for Indian tribes are protected. Thank you.

Sincerely,

Daryl D. Gardipe

Tribal Chairman

Enclosure