Standing Rock Sioux Tribe
The Office of Chairman Sitting Bear
P.O. Box D
Fort Yates, ND 58538

October 30, 2026

Majority Leader John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, D.C. 20510

Minority Leader Chuck Schumer
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Chairman Shelley Moore Capito
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington DC 20510

Chairman Mike Lee
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Sheldon Whitehouse
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington DC 20510

Ranking Member Martin Heinrich
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Re: Opposition to the Bipartisan American Affordability and Jobs Act

Dear Majority Leader, Minority Leader, Chairmen and Ranking Members:

As the Chairman of the Standing Rock Sioux Tribe (Tribe), I write to strongly oppose the Bipartisan American Affordability and Jobs Act (BAAJA). BAAJA's proposed changes to the review processes within the National Historic Preservation Act (NHPA), the Clean Water Act (CWA), National Environmental Policy Act (NEPA), and the Endangered Species Act (ESA) violate the United States' Treaty and Trust responsibilities to the Tribe and Indian tribes across the United States.

The review processes under each of these laws provide critical opportunities for our governments to work together to ensure that our Treaty rights and Trust lands, waters, and resources are protected. Without careful consideration of our rights and resources under these laws, Indian tribes will be forced to turn to more and more litigation to uphold the commitments the United States made in Treaty and is required to implement through its Trust responsibility to Indian tribes.

The Standing Rock Sioux Tribe lives every day with the failure of projects and permits that were approved without taking into consideration the impacts on our Treaty rights and Trust lands, waters, and resources. In the 1960's, the Pick Sloan Missouri River Basin Program flooded 56,000 acres of our most productive agricultural lands and hunting grounds. Entire communities were

relocated to inundate lands that we reserved in Treaty to form Lake Oahe. More than 60 years later, we suffer from high rates of diabetes and socioeconomic distress due to the loss of traditional foods and our traditional economies. As a result of this disastrous decision, the United States has paid out hundreds of millions to tribes along the river, still owes our Tribe equitable compensation, and the once mighty Missouri River is now at historic lows and our communities look out over mud flats.

In another example, just upstream of our Reservation and through unceded 1868 Treaty lands, in 2016 the U.S. Army Corps of Engineers (Corps) approved a water crossing permit for the Dakota Access Pipeline utilizing only an Environmental Assessment and with no consideration for historic properties and cultural resources. The Corps rushed permitting was a significant failure that has resulted in more than 10 years of still ongoing litigation. Meanwhile, the original capacity of the Pipeline has more than doubled and about 750,000 barrels of oil a day cross underneath Lake Oahe. The flow of this oil is a constant threat to our homelands, our lands and resources reserved in Treaty, our primary source of drinking water, and the drinking water of about another 10 to 17 million people downstream.

Gutting the Modern Day Implementation of the Federal Government's Treaty and Trust Responsibilities

Despite the long history of the Federal government's permitting failures and impacts on our Treaties and the Trust resources, BAAJA proposes to further gut the information, analysis, and improved decision-making that comes from working with Indian tribes under these laws on a government-to-government basis. BAAJA would all but eliminate the United States Treaty and Trust responsibilities that are implemented through the NHPA, CWA, NEPA, and ESA.

The proposed changes to the NHPA review process would remove mandatory consultation requirements with Indian tribes, enable a wide range of projects to escape review under Section 106 of the NHPA, substantially limit deadlines for review, and severely restrict opportunities to challenge decisions that may cause the destruction of historic properties and cultural resources. The impacts on tribes and our resources will be the same as bulldozing through the Washington National Cathedral or Arlington Cemetery.

The proposed changes to CWA permitting processes will degrade water quality on Indian lands and subject tribes to increased pollution from upstream projects. BAAJA's proposed extension of National Pollutant Discharge Elimination System (NPDES) permits from 5 to 10 years would limit tribal review of permits and implementation of new and developing technologies. In addition, limits restricting the scope of review to point sources will result in water quality degradation caused by runoff, sediment, and other sources of agricultural and industrial contamination to be overlooked. BAAJA would also limit the Corps CWA Section 404 permitting authority which is exactly how a massive pipeline was permitted just upstream from our Treaty homelands.

The proposed changes to NEPA and ESA review processes will severely limit tribal participation and the consideration of tribal expertise and ecological knowledge. In addition, allowing states to assume federal tribal consultation duties is an improper delegation of the United States' Treaty and

Trust responsibilities. State governments have no authority or oversights of our rights and resources reserved in Treaties with the United States. Further, attempting to limit the time to file legal challenges under the NHPA, CWA, NEPA, and ESA will only result in more litigation as we will be forced to litigate rather than work with the United States on a government-to-government basis to resolve issues.

Upsetting the Supreme Law of the Land

As set out in Article VI, Clause 2 of the U.S. Constitution, our Treaties are the Supreme Law of the Land. Pursuant to our Treaties, the United States has a government-to-government and trust relationship with our Tribe. The United States also has a Treaty and Trust responsibility to ensure that our lands, waters, natural and cultural resources are protected and managed in our best interest.

Despite these legal requirements and obligations of the United States, BAAJA fails to live up to even the most basic requirements of federal law. BAAJA would undermine centuries of Treaties, legislation, and Supreme Court precedent establishing that the Federal government has Treaty and Trust responsibility to Indian tribes. BAAJA would result in more litigation and slower permitting.

The United States must live up to its Treaty, Trust, and government-to-government responsibilities to Indian tribes. When we work together decision-making is improved and sustainable.

The Standing Rock Sioux Tribe strongly opposes BAAJA and we urge the Congress and the Committees to hold listening sessions and consult with Tribes on ways to improve permitting. There are existing models of federal agencies working cooperatively with tribes to utilize tribal expertise and ecological knowledge to build a more sustainable future. BAAJA will bring more pollution, more drought, and more extreme weather.

Working together on a government-to-government basis we can improve implementation of the NHPA, CWA, NEPA, and the ESA while also honoring and complying with the Treaties on which the United States was built.

Respectfully,

Steve Sitting Bear
Chairman