TRIBAL ALLIANCE OF SOVEREIGN INDIAN NATIONS

An intergovernmental association of tribal governments throughout Southern California

November 3, 2026

TRIBAL GOVERNMENTS:

AGUA CALIENTE BAND OF CAHUILLA INDIANS

AUGUSTINE BAND OF CAHUILLA INDIANS

CABAZON BAND OF MISSION INDIANS

CAHUILLA BAND OF INDIANS

CHEMEHUEVI INDIAN TRIBE

MORONGO BAND OF MISSION INDIANS

PECHANGA BAND OF INDIANS

SANTA ROSA BAND OF CAHUILLA INDIANS

SANTA YNEZ BAND OF CHUMASH INDIANS

SOBOBA BAND OF LUISEÑO INDIANS

TORRES MARTINEZ DESERT CAHUILLA INDIANS

TWENTY-NINE PALMS BAND OF MISSION INDIANS

YUHAAVIATAM OF SAN MANUEL NATION

Senator John Thune
Republican Leader
U.S. Senate
511 Dirksen Senate Office Building, Washington, D.C. 20510

Senator Chuck Schumer
Democratic Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Senator Mike Lee
Chairman
Senate Energy and Natural Resources Committee

Senator Martin Heinrich
Ranking Member
Senate Energy and Natural Resources Committee

Senator Shelley Moore Capito
Chairman
Senate Environment and Public Works Committee
410 Dirksen Senate Office Building, Washington, D.C. 20510

Senator Sheldon Whitehouse
Ranking Member
Senate Environment and Public Works Committee
410 Dirksen Senate Office Building, Washington, D.C. 20510

Dear Leaders Thune and Schumer, and Senators Lee, Capito, Heinrich, and Whitehouse,

On behalf of the Tribal Alliance of Sovereign Indian Nations (TASIN), an intergovernmental association of federally recognized tribes throughout Southern California, we write to express our strong opposition to Title III of the Bipartisan American Affordability and Jobs Act (BAAJA) concerning changes to the Section 106 review process of the National Historic Preservation Act. While we object to other provisions in BAAJA, this letter focuses on Title III's proposed changes, which threaten longstanding protections for tribal cultural and heritage resources and are inconsistent with the principles of tribal sovereignty, government-to-government consultation, and the federal trust relationship. They fail to respect our inherent sovereignty, self-determination, and Indigenous Knowledge. We urge you to immediately remove this language from the proposal and to consult with Tribal Nations on permitting reform that brings us to the federal decision-making table earlier, allowing us to work together to prevent further destruction of our sacred sites and cultural heritage.

A fundamental principle of the federal trust relationship with federally recognized Tribal Nations is the obligation to engage in meaningful government-to-government consultation on federal actions that substantially affect tribal sovereignty, self-governance, or trust resources. Yet the

proposed amendments to the National Historic Preservation Act's Section 106 review process contained in the BAAJA were developed and introduced without meaningful tribal consultation or government-to-government dialogue. Tribal Nations have not been afforded an opportunity to discuss the objectives of these legislative changes or their potential impacts on tribal programs, tribal cultural heritage, and existing statutory protections, including the very consultation requirements established to ensure that tribal interests are considered in federal decisions affecting historic properties and tribal traditional cultural places. Advancing legislation that would alter these longstanding protections without first meaningfully consulting the Tribal Nations they are intended to protect undermines the principles of respect, sovereignty, and government-to-government engagement that underpin the federal trust relationship.

Permitting reform does not involve a choice between the pursuit of infrastructure projects and the protection of tribal cultural heritage. Through government-to-government consultation, we can craft federal policy that accomplishes both aims. When Tribal Nations are brought into federal decision making at its earliest stages, we can help guide project design to avoid irreparable harm and legal violations—allowing for faster and more durable decisions. Indeed, without the involvement of Tribal experts, federal agencies and project proponents—even with archaeologists—cannot fully identify historic properties of religious and cultural significance to Tribal Nations or accurately assess the adverse effects of proposed projects on these unique and irreplaceable resources. We have seen this approach succeed. For more than a decade, TASIN Member Tribes have worked constructively with the California Legislature to balance development policy with respect for and preservation of Native American cultural heritage. These efforts demonstrate that faster permitting and meaningful Tribal engagement are not competing goals.

The reviews required under Section 106 are vital to the continuity of Native cultures, the practice and teaching of our cultural and spiritual traditions, and the protection of our sacred sites from irreparable degradation and ruin. After centuries of removal from the very places that hold cultural and religious knowledge and identity, the Section 106 review process, though imperfectly implemented, provides Tribal Nations with an important mechanism to ensure that these places are identified, evaluated, and treated in accordance with culturally appropriate protocols and methods. Meaningful also helps federal agencies make better-informed decisions and avoid the delays, disputes, and litigation that can result when Tribal Nations are excluded from the process. Yet the current language of BAAJA threatens to facilitate the destruction of our cultural heritage, a regressive approach that disregards the progress made in the Tribal-U.S. relationship during the self-determination era and risks returning us to a period of U.S.-sanctioned dispossession.

Title III contains provisions that would significantly diminish Tribal Nations' ability to meaningfully participate in federal decision-making processes and protect our sacred places, cultural resources, and heritage from irreparable harm, including:

- **New definitions and statutory exemptions limiting the scope and application of Section 106:** By limiting key definitions and creating new exemptions involving terms such as "undertaking," "effect," and "area of potential effects," the bill would significantly reduce the circumstances in which Section 106 review is required, thereby limiting opportunities for

Tribal Nations to participate in federal decision-making. Even when Tribal Nations are involved, the proposed definitions would establish new standards for assessing project impacts that could exclude culturally significant tribal resources from consideration. Collectively, these amendments would substantially curtail Tribal Nations' ability to identify and safeguard our cultural heritage, increasing the risk that construction could proceed through sacred places without their identification or culturally appropriate treatment.

- **Reduced government-to-government consultation and increased federal deference concerning tribal culture and heritage:** Under the bill, Tribal Nations need not be consulted on a project area of potential effects (APE), the identification and significance of historic properties, and a project potential effects on those places—requiring only that federal agencies consult after they issue a report containing their pre-determined conclusions. The federal agency could be the sole entity in determining whether a Tribal cultural property exists, despite Tribal Nations and cultural experts being the only entities qualified to make these determinations.

- **New Environmental Override:** Most consequentially, the bill would authorize federal agencies to determine that "other considerations" outweigh adverse effects on sacred places and cultural resources. This provision raises serious concerns about whether tribal cultural and religious interests would receive meaningful consideration in federal decision-making. Moreover, Tribal Nations were not meaningfully consulted on the development of this proposed override or afforded an opportunity to explore alternatives that would allow necessary infrastructure projects to proceed while protecting tribal historic properties through efficient consultation and culturally appropriate solutions.

- **Dismantling of Tribal Historic Preservation Officer (THPO) Programs:** As drafted, the bill would penalize Tribal Nations for missed review deadlines through the loss of Tribal THPO status and funding. Even more egregious the bill would allow authorize the Department of Interior to assume THPO responsibilities, effectively dismantling the very tribal preservation programs that federal policy has long sought to strengthen. This deeply paternalistic approach would substitute federal oversight for the specialized cultural knowledge and legal authority of Tribal Nations, undermining longstanding federal policies of tribal self-determination and self-governance.

- **Restrictions on Judicial review and remedies for Tribal Governments:** Instead of acknowledging and mitigating federal failures, this bill attempts to shut Tribal Nations out of the courtroom. Most glaringly, it nearly eliminates any real remedies available to Tribal Nations by stipulating remand without vacatur as a baseline, thus allowing projects to proceed while remand to address inadequate Section 106 review is ongoing. By restricting the availability of temporary injunctive relief, the bill could allow projects to proceed and cause irreparable harm to sacred places while Tribal Nations await a judicial determination concerning the adequacy of the Section 106 review process. A subsequent court ruling cannot restore a sacred site that has already been destroyed. This bill also institutes a 150-day statute of limitations, attempts to limit standing, forces a Tribal Nation to assert substantive objections to a federal agency's Section 106 report within a mere 30 days of receipt, and creates additional burdens for litigating Tribal Nations.

Tribal Nations should not be forced to bear the brunt of these cultural, spiritual, and public health harms in the name of developing and transporting energy resources. Tribal Nations have already sacrificed the majority of our lands and natural resources—oftentimes through force or coercion. We should not now be asked to sacrifice what remains of our sacred places and cultural heritage in the pursuit of faster permitting.

As Indian Country has noted repeatedly, early, robust, and meaningful consultation with Tribal Nations (that includes mitigation and avoidance requirements) and meaningful increases in funding owed for Tribal historic preservation will result in faster infrastructure deployment and greater certainty in the permitting process. While we strongly support robust and strengthened national infrastructure, any infrastructure build-out, in Indian Country and beyond, must not occur at the expense of Tribal consultation, sovereignty, sacred sites, or public health.

It is with this in mind that we register our strong opposition to Title III of the Bipartisan American Affordability and Jobs Act as written. We urge you to remove Title III from the proposal and welcome the opportunity to meet with you and your staff to develop permitting reform that are more efficient, more durable, and honors the federal government's trust and treaty obligations to Tribal Nations.

Sincerely,

LYNN VALBUENA
Chairwoman

CATALINA CHACON
Vice Chairwoman

STEVEN ESTRADA
Secretary

ROSEMARY MORILLO
Treasurer