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Dear Members of the United States Senate Democratic Caucus:

On behalf of the Tulalip Tribes, we write to express our continued and unequivocal opposition to the Bipartisan American Affordability and Jobs Act (BAAJA), including the recently released manager's amendment, and **urge members of the United States Senate Democratic Caucus to vote NO on cloture.** While changes have been made, they do not resolve our fundamental concerns regarding the erosion of Tribal sovereignty, the weakening of federal environmental protections, and the threats this legislation poses to federally reserved treaty rights, our waters, and sacred places.

The Tulalip Tribes are successors in interest to the signatories of the 1855 Treaty of Point Elliott, which reserved our right to take fish at our usual and accustomed fishing grounds and stations. These rights were never granted by the United States; they were reserved by our ancestors and remain binding federal law. In *United States v. Washington*, federal courts affirmed treaty tribes' rights to harvest a fair share of available fish and subsequently recognized, in the culvert litigation, that government actions substantially diminishing salmon habitat and production can violate treaty fishing rights. **A treaty right to fish cannot be meaningfully exercised if government actions destroy the fish or the habitat necessary to sustain them.**

The proposed amendments to the Clean Water Act (CWA) threaten these rights by weakening protections for salmon-bearing rivers, streams, wetlands, and estuaries. The manager's amendment retains troubling restrictions on state and Tribal water quality certification authority under Section 401, potentially limiting the ability to address pollution, sedimentation, increased water temperatures, and other impacts affecting salmon survival. These restrictions also diminish the role of Tribal governments in decisions affecting waters and resources central to our treaty rights and sovereignty.

BAAJA would also weaken protections associated with Section 404 dredge-and-fill permitting and Environmental Protection Agency oversight. Expedited permitting could allow projects to damage critical aquatic habitat without adequate review, while limiting opportunities to challenge harmful decisions. These changes threaten decades of salmon recovery investments made by Tribal, federal, state, and local governments. **The United States cannot fulfill its treaty obligations while weakening the legal protections necessary to sustain treaty-reserved fisheries.** Although BAAJA does not expressly eliminate treaty rights, its permitting changes could undermine the resources essential to their exercise.

Equally troubling are Title III's proposed amendments to the National Historic Preservation Act (NHPA), which continue to threaten Tribal sovereignty and sacred places. Despite the changes in the managers amendment, the legislation would subject Tribal Historic Preservation Offices (THPOs) to recurring federal evaluations and potential suspension by the Department of the Interior. These punitive and paternalistic requirements impose

The Tulalip Tribes is the federally recognized successor in interest to the Snohomish, Snoqualmie, Skykomish, and other allied tribes and bands signatory to the Treaty of Point Elliott.

unwarranted federal control over Tribal governmental institutions without evidence of widespread performance problems.

Title III would also continue to narrow protections for sacred places by requiring certain harms to directly alter historic properties, removing "feeling" from relevant protections, and limiting consideration of visual, atmospheric, and audible effects. Federal agencies would retain broad discretion to define review boundaries, determine which properties receive consideration, exclude places identified after review begins, and weigh other interests against protecting sacred sites. These provisions disregard the cultural and spiritual significance of Tribal landscapes and undermine the authority of Tribal Nations to protect their heritage. Repackaging these provisions does not cure their fundamental defects.

Our concerns also extend to proposed changes to the National Environmental Policy Act, Endangered Species Act, and Federal Power Act, which would weaken environmental review, species protections, and opportunities for Tribal participation in decisions affecting salmon habitat, hydropower operations, and treaty resources. Together, these changes threaten the interconnected federal protections essential to our lands, waters, and communities.

The Tulalip Tribes recognize the importance of improving federal permitting, creating jobs, and addressing affordability. However, economic development and treaty rights are not mutually exclusive. Permitting reform must not become a vehicle for circumventing the federal government's treaty and trust obligations. Treaties are the supreme law of the land, not simply another interest to be balanced against administrative efficiency.

We are deeply concerned that legislation of this magnitude could advance without adequate congressional hearings, public examination, and meaningful government-to-government consultation. Changes to these foundational environmental laws demand careful consideration of their consequences for Tribal sovereignty, and treaty and other federally reserved rights.

Accordingly, the Tulalip Tribes urge members of the United States Senate Democratic Caucus to vote NO on cloture and oppose BAAJA, including the manager's amendment, in its current form. Any permitting reform must preserve meaningful Tribal and state water quality certification authority, federal oversight of aquatic resources, treaty-reserved fisheries, sacred places, Tribal Historic Preservation Office authority, and meaningful Tribal participation in federal decision-making. The Tulalip Tribes have honored our treaty commitments for more than 170 years, and we expect the United States to do the same. Our treaty rights are not obstacles to economic progress, but solemn obligations of the United States that must not be compromised in the name of permitting reform.

Sincerely,



Hazen Shopbell
Tulalip Tribal Chair