FACT SHEET

The Bipartisan American Affordability and Jobs Act (BAAJA, S. 5653)

A Threat to Clean Water and Communities in New Mexico

Overview of BAAJA

BAAJA would undermine longstanding processes and protections that New Mexicans have relied on for decades to protect clean water, public lands, and Tribal sovereignty.

- Includes major amendments that would weaken bedrock laws such as the National Environmental Policy Act, the Clean Water Act, the Endangered Species Act, the National Historic Preservation Act, and other permitting laws.
- Undermines the ability of states and Tribes to protect clean water.
- Incorporates the full text of the Mining Regulatory Clarity Act (MRCA), an industry bill written to allow mining companies more access to pollute public lands.

Taken together, the water and mining provisions in this bill would severely weaken longstanding Clean Water Act protections, limit the authority of states and Tribes to protect their waterways, fast-track mining projects in New Mexico, allow mining waste to be dumped on public lands, and make it easier for the oil and gas industry to pollute and destroy our waters.

BAAJA and Clean Water

How does BAAJA undermine Clean Water Act protections?

The Clean Water Act provides essential protections that help prevent pollution from entering our nation's rivers, lakes, streams, wetlands, and drinking water sources. BAAJA proposes sweeping changes to these protections, making it harder to develop and adopt water quality standards, affecting how pollution permits are issued and renewed, how projects impacting wetlands and waterways are reviewed, and how communities can challenge harmful permitting decisions. Key provisions undermining clean water include:

- Turns EPA's development of scientific guidance into full-blown rulemaking processes, which will slow down and politicize EPA's responsibility to synthesize science and provide guidance to states and Tribes for adopting water quality standards for harmful pollutants such as PFAS.
- Narrowly restricts what states and Tribes can consider when reviewing and conditioning federal permits.
- Prevents states from imposing requirements on federal permits to protect aquatic habitat and fish passage and avoid flooding impacts.
- Restricts authority over state and Tribal waters that fall outside the federal definition of "waters of the United States," which would include 95% of NM's rivers and 88% of NM's wetlands.
- Extends the duration of Clean Water Act permits from 5 years to 10 years, delaying periodic updates and the implementation of new treatment standards for hazardous pollutants like PFAS.
- Changes the threshold of what is considered a "minimal impact" to wetlands from ½ acre to 2 acres.
- Limits the ability of communities to legally challenge federal actions that would affect water quality by drastically reducing timelines for filing legal challenges and prohibiting courts from issuing permanent injunctions or vacating (canceling) permits. Judges are limited to "remand without vacatur," meaning an agency must fix its paperwork while construction continues.

BAAJA and Mining

How would BAAJA enable mining projects to destroy vulnerable and sacred New Mexico landscapes and water?

Areas under particular threat from unregulated mining if BAAJA passes:

The Greater Chaco Area
Unregulated uranium mining

The Chama Watershed
Unregulated uranium mining

The Pecos Watershed
Mining and milling of gold, silver, nickel, and other minerals

Mt. Taylor Traditional Cultural Property
Unregulated uranium mining

Ranching and hunting lands in Catron County
Unregulated uranium mining

The Gila National Forest
Mining and milling of copper and other hardrock minerals

What are the particular threats regarding mining?

- Locks in any project already approved, eliminating any chance of future mineral withdrawals in our most vulnerable and sacred places.
- Incorporates the full text of the previously proposed MRCA, which allows mining operators to use federal lands for waste rock and tailings disposal.
- Allows mining companies to stake an unlimited number of "milling" sites on public lands, constructing unlimited waste rock piles, new roads, tailings storage facilities, and power lines.
- Severely restricts Tribal consultation on mining projects.
- Allows operations to move forward while changes are negotiated, even when a mining plan does not comply with environmental or Tribal consultation requirements.
- Allows mining companies to define the scope of their own environmental reviews and requires the purpose of each review to align with the company's own goals.
- Lets companies define for themselves who counts as a "stakeholder" and create "records of public engagement" in which they can claim to have consulted interested parties by meeting with, and excluding, any entities and communities they choose.

Take Action

Call New Mexico's congressional delegation and ask them to vote "no" on the bill. Let Senator Heinrich know that you are disappointed that he is one of the lead sponsors of the bill:

Senator Martin Heinrich (D)
(202) 224-5521

Senator Ben Ray Luján (D)
(202) 224-6621

Rep. Melanie Stansbury (D — 1st District)
(202) 225-6316

Rep. Gabe Vasquez (D — 2nd District)
(202) 225-2365

Rep. Teresa Leger Fernández (D — 3rd District)
(202) 225-6190

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