Regarding **BAAJA - Bipartisan American Affordability and Jobs Act of 2026** - Senate Bill 5653

Remarks by Judith Enck - President and Founder of Beyond Plastics
Transcribed by J. Cyphers, Damascus Citizens for Sustainability

This is a federal Bill, BAAJA, has been making its way through the US Senate ***(the bill passed the Senate on Nov. 19)***. It is extremely alarming and disturbing. It is a 500-page bill, and yet there has *not been one public hearing* on it. Two nights ago, the Senate made public 200 possible Amendments and the next day started voting on it. We expect the final vote on this bill to come up in the Senate tomorrow night. There were some preliminary procedural votes and Kirsten Gillebrand and Chuck Schumers both voted the wrong way on this bill They voted for it *(Senator Gillebrand since reversed her vote and voted No)*.

You have probably not heard of this, but for years, the fossil fuel companies and data center companies have been trying to pass what they call permitting reform, because they falsely claim that the environmental permitting process is too clunky and is standing in the way of them building new fossil fuel facilities. What they consider clunky is legitimate environmental review. It was pretty quiet for a while, and what has happened this year is two Senate Republicans, Mike Lee of Utah, who is notorious for wanting to *develop public lands*, and Shelley Capito of West Virginia. These two are big coal, and oil and gas senators. They teamed up two Democratic senators to draft a real horrible bill behind closed doors. **Sheldon Whitehouse of Rhode Island** and **Senator Martin Heinrich of New Mexico** champion themselves as people who care about climate change and the environment, but I think pushing this bill has permanently damaged their reputations. Their logic is that they have a little bit of language in this bill to promote the siting of renewable energy projects, and to deal with transmission bottlenecks, and they're willing to swallow the very bad parts of the bill to get a couple of good provisions. *I would generally say that 80% of the bill is very bad and that 20% is good*.

What we would like Congress to do is to abandon this in the lame duck session and come back to this in January when there is a majority in both houses that are not so anti-environmental. Senators Whitehouse and Heinrick are saying is that Donald Trump will not sign a good bill, so they are advancing to him a bad bill. This is illogical. I did not even know about this until the night of the midterms. They are purposely trying to sneak this through the lame duck session.

When calling your members of Congress you should start with explaining who is supporting the bill and who is opposing the bill. One of the major supporters is **EXXON Mobil**, **the largest producer of plastics in the country**. Another big supporter is the **American**

Petroleum Institute. These guys are so shameless. A week ago they brought a food truck to Washington DC to give out free TACOs for Congressional staff to promote this BAAJA Bill. These guys have money to burn. They are the big fossil fuel companies. Also supporting the bill is President Trump and Stephen Miller. Miller says it's his top priority for the lame duck because, we have learned, that it will also facilitate the siting of ICE detention centers. You may recall the one in Florida called Alligator Alcatraz. The court shut this down. They depended on the National Environmental Policy Review Act NEPA to do that. If this bill becomes law, that case, and other cases like this the power of NEPA is gutted.

Former Vice President Al Gore is opposed to the bill. He has been forcefully speaking out against the bill. Most tribal governments are opposing the bill and mobilizing against it. Their rights on reviewing infrastructure projects are being trampled upon. All the major environmental justice groups, Dr. Robert Bullard, REACT for Environmental Justice, Beyond Plastics, NY Communities for Change, Bill McKibben and Third Act (Bill's Substack has beautiful writings on this bill and why it's so bad), Food and Water Watch, NYPERG, Sierra Club, NRDC, Hudson Riverkeeper and all the Riverkeepers, National Wildlife Federation, Environmental Advocates of New York.

When you're making your calls to Congress always lead with President Trump, Stephen Miller, and Exxon Mobil. They are working hard to pass this bill during lame duck and we can't let them. The **ACLU** has come out against it and so has the **New York Immigration Coalition** because of the really inhumane giant ICE detention centers Stephen Miller wants to build more of. We are honored to be in coalition with them.

The clock is ticking. The US Senate is voting tomorrow night *(the bill passed the Senate on Nov. 19)* but it does not look good. We do have a chance to stop it in the house. The earliest they will take it up is the first week in December, right after Thanksgiving and all of the members of Congress are back in their district offices next week. The Republicans may try and vote as a block and they have a majority. There are two ways we can try to stop it. There are several Republicans that are raising very legitimate concerns about the use of eminent domain to site pipelines and they have been offering amendments that have been rejected.

We really need to convince Hakeem Jefferies who the democrats just nominated to become the new house speaker. Reach out to his district office in Brooklyn. 718-237-2211 or 718-373-0033. Reach out to Yvette Clark who is the chair of the **Congressional Black Caucus**. We know that environmental justice communities are going to be severely damaged by the construction of pipelines and power plants, including Fracked gas power plants and pipelines, which will result in more plastic production. Clarks district includes Park Slope and Windsor Terrace. Her district office and phone number in Brooklyn is 718-

287-1142. If you know people who live in these areas that can get to her directly, that's helpful. Clark is very responsive to her constituents.

Rita O'Connell - National Beyond Plastics Organizer

This bill has moved through the Senate under a tax bill vehicle called HR 2347, the Survivor Justice Tax Prevention Act. This is the vehicle it will show up in, in the house. This is a way of getting bills passed quickly, without having to go back to conference.

BAAJA takes an axe to historical Federal Protection guardrails put in place in the 60s and 70s

1. Section 401 of the Clean Water Act is removed, which will makes it harder for states and tribes to protect their own waters. It weakens safeguards for dredging and filling wetlands and other waters that are already under attack because of the Supreme Court's Sackett vs. EPA decision a few years back. How we define waters has already been changed.

2. This bill would double the maximum term for industrial wastewater permits. Currently they're 5 years. It would double them to 10.

3. The bill requires clear and convincing evidence that lesser steps to address Clean Water Act concerns would not suffice. This is a gaping loophole for industry.

4. Tribes are very upset because the bill comes for NHPA, the **National Historical Preservation Act**, and for the **National Environmental Protection Act**, NEPA, and two primary vehicles for communities to use their voices to reject polluting facilities. NHPA is the cornerstone of tribal sovereignty in this country. Through amendments they have restored **Mandatory Tribal Consultation** but they have left in the federal agency's ability to have SOLE discretion to determine, without explaining, that they can ignore adverse affects that tribes or environmental justice communities may be raising, if they feel they may be outweighed by other considerations. Other considerations are not defined, and again, the agency gets sole discretion there.

5. The **Endangered Species Act**. The bill would let states take over certain ESA.

6. It changes the standard for using "**Best Available Science**" in deciding on permit approval. Under this new bill it would be BAS up to the point of the receipt of the permit, so any science that comes afterwards is discounted.

7. The **Project Certainty Clause**, Section 1401. This would kneecap the federal governments ability to revoke, to suspend, or to change federal authorizations, after a project has received its necessary approval. This covers oil and gas, deep-sea mining,

regular mining, data centers, and immigration facilities. This is a complex clause, but essentially, it will *grandfather* anything already approved by an administration. For example, a company proposes an ethane cracker plant that requires a federal permit, because they need to fill in a wetland to build. That state or tribe already has a limited ability of what they can contest under the **Clean Water Act**. It will raise that bar for imposing water quality conditions, and then, when this project is approved, it if turns out the agency approving it messed up the NEPA review, a court could decide to send the decision back and say it needs to be corrected, but the court **cannot** stop the approval based on that violation.

Food and Water Watch said that this bill is the biggest rollback to federal environmental protections that we've ever seen. It's an unforgivable attack on tribal sovereignty and it's an egregious give away to data centers and the fossil fuel industry. Meanwhile, Trump says this bill would codify the **American First Energy Agenda** and ensure we can build pipelines and power plants faster than ever before

We really want to slow this down until the new congress comes in.