October 15, 2026

The Honorable Patty Murray
U.S. Senate
154 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
U.S. Senate
511 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Marie Gluesenkamp Perez
U.S. House of Representatives
1431 Longworth House Office Building
Washington, D.C. 20515

RE: Bipartisan American Affordability and Jobs Act of 2026

Dear Senator Murray, Senator Cantwell, and Representative Gluesenkamp Perez:

The Cowlitz Indian Tribe (Tribe) urges you to oppose the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA) (S. 5653), which would harm Tribal sovereignty, self-determination, and natural and cultural resources. Permitting reform is a worthy goal, but this legislation is not the solution. While the Tribe objects to many parts of BAAJA, this letter focuses on Title III - Historic Preservation, which revises the Section 106 review process in the National Historic Preservation Act (NHPA).

The Section 106 process helps Tribes have a voice in Federal decision-making affecting places of traditional religious and cultural significance. It is vital to the continuity of our culture, traditions, and protection of our sacred sites. Tribal engagement in these reviews is an exercise of Tribal sovereignty and an essential component of the federal trust responsibility to Tribes. The proposed changes in BAAJA provide for infrastructure improvement at the expense of Tribal heritage protection – a false choice. Title III of BAAJA makes several sweeping amendments to the NHPA that narrow, if not eliminate, Tribal input and reduce critical cultural and sacred site protections afforded to Tribes. These changes include narrowing criteria for places of tribal cultural or religious significance to qualify for the

National Register of Historic Places, narrowing the definition of undertaking to exclude many federal activities, reducing the scope of effects considered, increasing non-Tribal control over Tribal Historic Preservation Officers (THPO), and limiting judicial review, to name just a few.

In 2021, the Tribe entered into an agreement with the National Park Service to staff a Tribal Historic Preservation Officer (THPO) position in our Cultural Resources Department. The Department now provides timely comments on over 3,000 projects a year. The Tribe has a tracking system for these responses and performance is measured. Rather than being swayed by anecdotes of project review processes that have gone awry due to poor planning, the bill's proponents should focus on hard data regarding the compliance process. If they did so, they would find that most projects move through the Section 106 process smoothly, especially when project proponents engage with Tribes early in project planning and consider alternatives that will benefit everyone.

Rather than being developed in an open process with Tribes at the table, BAAJA was developed behind closed doors. What emerged is legislation that will create uncertainty and lead to legal challenges and project delays, a far cry from its stated purpose to increase affordability and jobs. Title III includes multiple terms that are undefined. For example, by what standards will we determine whether a project will "*significantly diminish* the eligible characteristics of [a] historic property"? (54 USC § 306108(a)(1)(B)(i)). These undefined terms will inevitably result in delays as the courts work out the answers.

This bill attempts to promote efficiency not by improving processes based on data, but by exempting whole categories of projects from review, some of which would result in the destruction of Tribal historic properties. For example, BAAJA would redefine "undertaking," exempting those projects that receive Federal grants (54 USC § 306108 (a)(7)(B)(ii)). In Cowlitz Territory, projects receiving grants from the Federal Highway Administration would therefore not be subject to NHPA review. Many of these projects, including the Interstate Bridge Replacement (IBR) Project over the Columbia River and the East Fork Lewis River Bridge Replacement Project, run through ancestral Cowlitz village sites and burial grounds. Under BAAJA, projects like these would start and then have to be halted after the homes and remains

of our ancestors are found during construction. This will create delays, not prevent them, while our heritage is addressed in the least efficient, most desecrating way.

Perhaps even more important than the damage to our heritage under BAAJA is the damage to our sovereignty. When we signed the THPO Assumption Agreement, the Tribe committed to "[a]dvise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities." We honor that commitment daily, and the Tribe invests its own funds in these reviews, resulting in a net gain for the U.S. government. With the flexibility in this Agreement, the Tribe has brought more resources to the table, enhanced historic preservation, and facilitated more efficient Section 106 review of federal undertakings.

BAAJA would strip the Tribe of the flexibility to make work assignments to Tribal employees in the way we, as Tribal sovereigns, see fit. If our THPO misses one of the bill's undefined "required metrics," 54 USC § 306108 (c)(5)(B)(ii) would have the Secretary of the Interior mandate that the THPO "shall spend not less than 50 percent of the workweek … to remedy the failure." BAAJA also directs the Secretary to suspend THPO agreements and related funding if the THPO does not "regularly comply" with consultation timelines, complete consultation "expeditiously" or meet "required metrics," none of which are defined. Instead of supporting sovereignty and flexibility, BAAJA would dictate Tribal government decisions about the work of Tribal employees and undermine Tribal self-governance. Real regulatory reform would increase flexibility, not strip it away.

The Tribe has many other concerns with BAAJA, but we hope that these examples prompt you to dig into this bill and reach your own conclusions. The Tribe is ready to work with you and the bill's proponents to create an efficient regulatory process based on data, decades of experience, and a knowledge of Cowlitz Territory that goes back to Time Immemorial. Title III of BAAJA accomplishes none of this. For these reasons, we respectfully request, at a minimum, that you call for the removal of Title Ill from the bill and encourage proponents of NHPA Section 106 reform to work closely with Tribes to develop a proposal that streamlines review while respecting Tribal sovereignty and cultural preservation.

Should you have any questions about this letter, please direct them to me at the number listed below. You may also contact Jon Shellenberger, Director of the Tribe's Cultural Resources Department, at jshellenberger@cowlitz.org or 360-947-1620.

Sincerely,
COWLITZ INDIAN TRIBE

Bill Iyall (Oct 15, 2026 13:28:19 PDT)

William B. Iyall, P.E.
General Council Chairman

cc: The Honorable Shelley Moore Capito
The Honorable Mike Lee
The Honorable Sheldon Whitehouse
The Honorable Martin Heinrich
The Honorable Lisa Murkowski
The Honorable Brian Schatz
Ira Matt, Exec. Dir. of Indigenous Diplomacy and Federal Relations, NATHPO
Allyson Brooks, Washington State Historic Preservation Officer

CIT letter to WA Congressionals re BAAJA FINAL 10152026

Final Audit Report 2026-10-15

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