

The Wilderness Society

Permitting Reform Bill Could Lock in A.I. Data Centers on Public Lands

The Wilderness Society opposes this legislation, raising grave concerns about the permitting bill. The Bipartisan American Affordability and Jobs Act (BAAJA) represents a false choice between building renewable energy and protecting public lands, cultural resources, and the public's ability to engage on what impacts shared landscapes.

Alarmingly, the bill could accelerate and lock in the development of data centers on public lands and their impacts on water, wildlife, and communities.

Sec. 1401 would lock in authorizations and permits by preventing future administrations from taking any action on permitted projects on public lands, even when permits were approved unlawfully, except under extremely limited circumstances.

- If passed in its current form, this means **permanently entrenching data center development on public lands**. With at least 35 data center related applications covering 24,000 acres of public lands already pending, this could have very damaging impacts for public lands and local communities.
- It also means the Administration has even more incentive to race ahead and lock in as many approvals for pending data centers on public lands — as we've seen so far, this means **cutting corners to eliminate or curtail public input and environmental review**.

Sec. 1402 could make a data center moratorium on public lands exceedingly difficult to implement and could allow developers to sue taxpayers if their projects are slowed.

- The provision could be **weaponized against a future administration** that might try to deprioritize harmful development like fossil fuel projects that power data centers.
- This section also makes it **seemingly impossible to put forward a pause or moratorium** on certain activities, even if the pause would only be to allow time for closer review of potential impacts.
- The current Administration's **rushed and often illegal race** to allow data centers on public lands could become the standard against which future allowances are measured. This is because courts will be forced to evaluate alleged disparate treatment of projects based on rate of approvals and decision timelines over the previous 5 years. Given data centers on public lands may qualify as a covered activity and are a new and unprecedented use, **the entire history of authorization approvals would be based on the final few years of this Administration**.



BAAJA undermines bedrock environmental laws, turning NEPA into a dead letter, guts protections under the CWA, ESA, and gives unchecked discretion to federal officials determining when, if at all, NHPA's protections apply. These changes would accelerate data center projects and other projects including fossil fuels by eliminating or curtail environmental reviews including when they could impact cultural resources, endangered species and wetlands.

- Div. A title I **enacts sweeping changes to the National Environmental Policy Act (NEPA)**. It provides broad loopholes for actions that would no longer be subject to NEPA and eliminates meaningful judicial review (and therefore government accountability) for communities that seek to challenge agency decisions. Data center projects which flagrantly violate NEPA could not be voided by courts solely for NEPA violations.
- Section 2301 **threatens cultural resources and historic sites** by drastically undermining the National Historic Preservation Act (NHPA). It proposes to rewrite the provision that is used to identify historic places, consult with Tribal Nations and affected communities, consider alternatives, and seek ways to avoid, minimize, or mitigate harm before federal undertakings move forward.
- This bill **strips safeguards for water pollution by reducing protections** in the Clean Water Act (CWA) section 404 dredge and fill program. The only federal framework that protects wetlands and other waters. The bill would remove the EPA ability to veto the most egregious projects and ignore impacts on wildlife, flood control and other critical values.
- The bill **allows individual states to take over the process of conducting endangered species reviews** of federal actions under Section 7 of the Endangered Species Act (ESA). State wildlife agencies don't have the capacity to assume this responsibility effectively — in fact many states are facing significant budget deficits that make it difficult for them to take on more management. The bill also changes the definition of best available science. This change could overturn the legal principle that states must act to protect endangered species.

CASE STUDY



Townsite Solar 2 Data Center (Boulder City, NV)

On June 26th, 2025, BLM attempted to approve an amendment to an existing solar right-of-way to convert it into a data center project outside of Boulder City, Nevada.

The developer had previously proposed an identical project within city limits but withdrew the project days before the community was poised to reject the application.

It has since been enjoined by the Interior Board of Land Appeals. However, if BAAJA were to pass, under section 1401 Project Certainty, it would mean neither the IBLA nor a court could stop the data center from being built due to unlawful NEPA analysis. A future Administration couldn't come in and cancel the ROW or amend it even with the completely insufficient review. Section 1402 in BAAJA means the project sponsor could sue if denied an authorization by a future Administration for a pattern of disparate treatment.

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