Initial Analysis of How BAAJA Will Lock in Old-Growth Logging on Public Lands

Despite the efforts of Oregon's Sen. Ron Wyden and Sen. Jeff Merkley, on November 19, the U.S. Senate passed the Bipartisan American Affordability and Jobs Act (BAAJA). This bill, touted as "permit reform," will eliminate the public's ability to meaningfully challenge old-growth logging and other extractive development on public lands under an existing bedrock law, the National Environmental Policy Act (NEPA). The BAAJA bill now goes to the U.S. House.

BAAJA Would Lock in Old-Growth Logging with No Way to Stop It in Court

Co-sponsored by Sen. Martin Heinrich (D-N.M.) and Sen. Sheldon Whitehouse (D-R.I.), BAAJA nominally aims to facilitate the buildout of needed infrastructure for a faster transition to renewable energy. But the bill's language goes well beyond energy infrastructure. It applies to *all* types of actions that go through NEPA analysis. It locks in data centers, destructive mining, and fossil fuel development under the guise of "project certainty," and it kneecaps the public's and courts' ability to halt *any* type of plan or project that violates NEPA.

THIS INCLUDES OLD-GROWTH LOGGING PLANS AND TIMBER SALES.

The Trump administration already has several plans in process that would be less accountable to the law and the public if BAAJA is passed. Between the Western Oregon BLM Plan Revisions, Northwest Forest Plan Revisions, Roadless Rule rescission, and Blue Mountains Forest Plan Revisions, 14.5 million acres of public lands in Oregon will be at far greater risk.

Even if an agency completely ignores NEPA's analytical and disclosure requirements, BAAJA strips courts of the authority to issue an injunction prohibiting the plan or project from moving forward despite its unlawfulness.

Background on the National Environmental Policy Act

Congress enacted NEPA in 1970 with the twin goals of ensuring informed decision-making and meaningful public participation in actions taken by federal agencies. Essentially an environmental charter for the nation, Congress passed NEPA

to ensure that agencies “look before they leap” by thoroughly analyzing and disclosing the foreseeable environmental impacts of proposed plans and projects after considering public input.

For over 50 years, the public has been able to directly weigh in on federal proposals and, if necessary, take legal action when an agency did not adhere to NEPA’s requirements. The statute has been a powerful tool to push the federal government to be responsive to public concerns and to hold agencies accountable to the law. Over the years, Oregon Wild and partners have used NEPA to halt unlawful changes to the Northwest Forest Plan and to stop illegal old-growth logging projects on both BLM and national forest lands.

Unfortunately, since regaining control of the federal government in 2025, the Trump administration has taken numerous steps to weaken NEPA. These include restrictions on public notice and comment periods (if they are provided at all), as well as the elimination of longstanding regulations that provided binding direction for agencies to follow when implementing NEPA. These rollbacks have happened in tandem with measures the Trump administration has taken to weaken *other* bedrock environmental laws like the Endangered Species Act (ESA) and to exponentially increase commercial logging on public lands.

What This Means for Oregon Forests

Both the U.S. Forest Service and the Bureau of Land Management (BLM) are currently revising management plans that encompass most of Oregon’s forested public lands: the Blue Mountains Forest Plan Revisions for northeast Oregon and the Northwest Forest Plan (NWFP) and Western Oregon Plan Revisions (WOPR) for western Oregon. The Forest Service is also planning to rescind the Roadless Rule, which prohibits logging and road-building in some of the last undeveloped areas of our national forests, including headwater streams that provide drinking water and habitat for salmon and steelhead.

The comment period for the Blue Mountains plan revisions ended in September, and a draft environmental impact statement and comment period are anticipated any day now for WOPR. Both of these new plans seek to discard previous limits on old-growth logging. Rescission of the Roadless Rule would also open the door to aggressive old-growth logging in previously protected areas.

As for the Northwest Forest Plan, the Forest Service released a proposed amendment in late 2024 filled with new loopholes for the agency to target mature and old-growth trees, as well to expand logging in existing old-growth reserves. Reliable sources recently shared that in the coming weeks the Trump administration intends to release *additional* NWFP Amendment alternatives that will exponentially increase logging in our western Oregon forests by further weakening the NWFP's existing protections. The Trump administration plans to do this without providing an updated analysis explaining the environmental consequences of these new alternatives, completely ignoring the core purposes of NEPA: informed decision-making or meaningful public participation.

Old-Growth Timber Sales Will Also Become Nearly Impossible to Stop in Court

As noted, BAAJA's language applies to *all* types of federal actions, including forest plans *and* individual logging projects that implement those plans. Not only would BAAJA prevent a court from halting implementation of otherwise unlawful forest plans that expressly authorize old-growth logging, but it would also stymie legal action to block old-growth timber sales authorized pursuant to such plans.

That means Oregon Wild and our conservation partners would not have been able to protect the old-growth trees in the Goose Project on the Willamette National Forest, the Crystal Clear Project on the Mt. Hood National Forest, the White Castle Timber Sale on BLM lands near Myrtle Creek, or the Griffin Half Moon Timber Sale in the now-expanded Cascade-Siskiyou National Monument, among many other examples. More recently, NEPA has been a key tool for Oregon Wild and its partners to protect the "21-inch rule" for eastern Oregon national forests and the ancient forest stands on Yellow Butte above the Umpqua River in BLM's Blue and Gold Timber Sale.

Oregon's public lands forests are fragmented and still recovering from decades of "liquidation" policies explicitly aimed at converting old growth to plantations. The Trump administration and the timber industry want to return to such policies, and they will certainly take advantage of BAAJA to push through new forest plans and projects specifically designed to increase logging to historically destructive levels.

Won't the ESA Provide a Backstop to BAAJA?

At the same time it has already rolled back public notice and comment periods under NEPA, the Trump administration has used regulatory loopholes to delay consultation

regarding logging impacts on protected species until *after* a project has been carried out, making it more or less obsolete by the time it actually occurs (if it does).

The Trump administration has also asserted that only actions *intentionally* meant to kill or injure protected species constitute prohibited "harm" or "take" under the ESA. It no longer recognizes that "harm" and "take" occur *incidentally* to actions taken for other purposes, including logging and mining. This means the Trump administration does not intend to enforce the ESA as Congress intended or in line with the statute's language with regard to both federal agencies *and* private parties.

Furthermore, BAAJA itself weakens the ESA by transferring protected species consultations to *states*, most of which are not set up to conduct such reviews, and many of which are openly hostile to the ESA (Idaho and Wyoming, for example). And even if federal agencies still concede that their actions could jeopardize listed species' continued existence, the Trump administration has suggested it will use the "God Squad" to override such findings and authorize plans and projects to proceed regardless.

Unfortunately, as implemented and enforced by the Trump administration, the ESA does not offer solid guardrails to prevent old-growth logging or other destructive actions on our public lands. By transferring consultation authority to hostile and under-resourced states, BAAJA renders the fate of imperiled species even more dire.

Final Takeaways

Combined with weakened ESA enforcement and implementation, BAAJA puts a target on Oregon's remaining old growth. This bill paves the way for the Trump administration to avoid judicial consequences for destroying these remnant stands by prohibiting courts from enjoining *any* plan or project for even the most egregious NEPA violation. Once these ancient trees are cut, the public loses all of the wildlife habitat, clean water, carbon storage, and recreation benefits they provide for generations.