

February 9, 2017

Dear Senator,

We urge you to reject H.R. 5, the Regulatory Accountability Act (RAA), and H.R. 26, the Regulations from the Executive in Need of Scrutiny (REINS) Act. If enacted, these bills would dramatically slow down federal permitting of critical infrastructure, causing delays in construction by subjecting agencies' compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other federal laws to interminable litigation. Necessary energy, transportation, and other critical projects will languish and may be shelved for lack of schedule predictability and financing that relies on timely federal permitting decisions.

Our regulatory system needs to be predictable, consistent, and efficient, and these bills would achieve the opposite effect. The RAA and REINS Act would create major delays and interpose new levels of review for federal regulations, both those in effect currently and those promulgated in the future. These bills would hamstring federal agencies' ability to take any official action, including those required by the administrative review processes that help appropriately balance development and preservation of our national heritage.

Our members work closely with federal agencies on the implementation of those administrative processes to evaluate impacts of infrastructure development on the environment and historic properties, and we know first-hand that infrastructure developers rely on timely agency action and permitting decisions to complete their projects. They also rely on federal agencies to build an appropriate administrative record to support project decision-making in litigation. One particularly troubling provision from the RAA would eliminate the legal standard known as the *Chevron* deference, which permits courts to defer to an agency's reasonable interpretations of laws passed by Congress if the law is ambiguous or silent on an issue. A lack of judicial deference to agencies will increase litigation and the likelihood of conflicting judicial interpretations, for courts will review agency actions "de novo." Eliminating the *Chevron* doctrine would inject an untenable amount of uncertainty into all aspects of regulatory and administrative law. The effect will be to subject infrastructure developers to protracted litigation, remove their ability to rely on agency-decision making, and threaten the timely delivery of critical development projects, including energy transmission, pipelines, transportation corridors, and other high priority projects..

The RAA and the REINS Act will place enormous power in the hands of judges and legislators who have little or no expertise in regulatory and administrative matters. Agencies will be unable to adapt and respond to changing conditions that they alone are prepared to grapple with, potentially waiting years for Congress to resolve issues not contemplated during the legislative process. We therefore ask you to support the bipartisan regulatory safeguards that have been in place for decades and oppose the RAA and REINS Act.

Sincerely,

*American Anthropological Association  
American Cultural Resources Association  
Coalition for American Heritage  
National Association of Tribal Historic Preservation Officers  
Preservation Action  
Society for American Archaeology  
Society for Historical Archaeology*

### **American Anthropological Association**

AAA is the world's largest association for professional anthropologists, with 10,000 members. Based in Washington, D.C., the Association was founded in 1902, and covers all four main fields of anthropology (cultural anthropology, biological/physical anthropology, archaeology, and linguistic anthropology). Our members are employed in higher education or are students of anthropology, and others work in the public, private, and non-governmental sectors. AAA publishes 22 journals, offers career planning and professional development services, supports college and university departments, awards numerous prizes and fellowships, sponsors a paid summer internship program, a summer field school in ethnography and occupational therapy, and stages research conferences.

### **American Cultural Resources Association**

ACRA is the national trade association supporting and promoting the common interests of cultural resource management (CRM) firms. Our member firms have a vital role in the National Historic Preservation Act Section 106 process, helping clients by identifying and assessing historic and cultural resources prior to development, and by recommending responsible solutions that appropriately balance preservation values with development goals. ACRA's member firms employ thousands of CRM professionals nationwide, working in historic preservation, archaeology, anthropology, architectural history, and historical and landscape architecture.

### **Coalition for American Heritage**

The Coalition brings together history and preservation organizations to support the nation's historic preservation program and research in history, archaeology, anthropology, and the social sciences.

### **National Association of Tribal Historic Preservation Officers**

Founded in 1998, NATHPO is a national non-profit membership organization of Tribal government officials who implement federal and tribal preservation laws. NATHPO's overarching purpose is to support the preservation, maintenance and revitalization of the culture and traditions of Native peoples of the United States. NATHPO activities include monitoring the U.S. Congress, Administration, and state activities on issues that affect all Tribes and monitoring the effectiveness of federally mandated compliance reviews and identification, evaluation, and management of tribal historic properties.

### **Preservation Action**

Preservation Action is a 501(c)4 nonprofit organization created in 1974 to serve as the national grassroots lobby for historic preservation. Preservation Action seeks to make historic preservation a national priority by advocating to all branches of the federal government for sound preservation policy and programs through a grassroots constituency empowered with information and training and through direct contact with elected representatives.

### **Society for American Archaeology**

SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With more than 5,000 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

### **Society for Historical Archaeology**

With more than 2,300 members, SHA is the largest organization in the world dedicated to the archaeological study of the modern world and the third largest anthropological organization in the United States. Members come from a dozen countries, and most are professional archaeologists who teach, work in museums or consulting firms, or have government posts. Our members also include many of the world's underwater archaeologists through the Advisory Council for Underwater Archaeology.