

December 14, 2021

Hon. Charles Schumer  
Senate Majority Leader  
322 Hart Senate Office Building  
Washington, D.C. 20510

Hon. Ronald Wyden  
Chair, Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

Hon. Debbie Stabenow  
Chair, Senate Committee on Agriculture  
731 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senate Majority Leader Schumer, Senate Finance Committee Chair Wyden, Senate Agriculture Committee Chair Debbie Stabenow, and Committee Members,

While the Build Back Better Act (H.R. 5376) aims to deliver transformative investments to uplift communities across the United States, create jobs, and combat climate crisis, the bill as written contains expenditures and incentives in energy sources and technologies that would not only cause harm to communities, but which would also extend the life of polluting fossil fuel infrastructure, failing to transition the country to renewable energy and reduce emissions at the pace and scale science and justice require to reverse climate crisis.

We are writing to request you remove the following funding and tax incentives from the Build Back Better Act (see legislative citations and rationale in the Addenda below):

- **Nuclear power production tax credits** (Section 136108 of H.R. 5376).
- **Biofuels and biomass power plant tax credits, funding for biofuels development, and the Biofuels Infrastructure Program** (Sections 12006, 30109, 136101, 136101, and 136202).
- **Carbon Capture and Storage (CCS) tax credits, including Section 45Q CCS tax credits** for coal, fracked gas production, and enhanced oil recovery (EOR) projects (Section 136106).
- **Hydrogen power production tax credits** (Section 136204).
- **Waste-to-energy tax credit for the production of energy from municipal solid waste** (Section 136101).

The bill provides incentives for the development of these unproven and unnecessary technologies that allow continued pollution in already impacted vulnerable communities. Additionally, the bill retains existing fossil fuel subsidies including incentives for continued oil and gas development, exploration, and extraction, undermining the climate goals of the bill. The White House Environmental Justice Advisory Council states in its [Final Recommendations](#) report on President Biden's Justice40 Initiative that all Federal climate investments must "do no harm," and names these technologies as false solutions that will not benefit communities.

**We call on you to remove fossil fuel subsidies and all the above incentives for the development of harmful energy sources and technologies.** By investing in fossil fuels and these false solutions and technologies that perpetrate continued pollution, environmental justice inequities, and public health harms in communities, the Build Back Better Act falls short on the scale of investments needed to transition away from fossil fuels towards a renewable and regenerative economy.

The bipartisan Infrastructure Investment and Jobs Act already allocates over \$99 billion for hydrogen energy, nuclear energy, carbon capture technology and infrastructure, carbon utilization technologies, and highway infrastructure expansion that would extend demand for fossil fuels. The technologies outlined above would add an estimated \$61 billion in incentives for harmful technologies that impact environmental justice communities who face the burdens of pollution, extraction, and ecological degradation the most.

[Substantial evidence](#) shows these technologies have gross impacts on communities, particularly on Indigenous nations and communities, and Black, People of Color, low-income, as well as rural communities that already bear the brunt of energy materials extraction, ecological destruction, and pollution. Incentivizing the development of these technologies will contribute to increased pollution, and environmental injustice.

**The Build Back Better Act will not be a climate justice bill with these investments.** We cannot applaud this bill on one hand and accept funding for false solutions that will harm frontline communities with the other. As the Build Back Better Act moves to the Senate we urge you to remove expenditures that will harm communities. For the final version of this bill to actually be historic, it must prioritize directly impacted communities and do no harm.

We urge the Senate to remove these harmful expenditures from the final version of the Build Back Better Act, and directly fund real renewable energy and climate justice solutions that do not carry such high risk and inequitable costs to frontline communities and health.

Sincerely,

#### **Initiating Signatories**

Asian Pacific Environmental Network\*

Labor Network for Sustainability\*

Center for Economic Democracy\*

New Economy Coalition\*

Climate Justice Alliance\*

People's Action\*

Grassroots Global Justice Alliance\*

Right to the City Alliance\*

Gulf Coast Center for Law & Policy\*

UPROSE Brooklyn\*

Indigenous Environmental Network\*

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\* Members of the [United Frontlines Table](#).

## National Signatories

198 methods  
About Face: Veterans Against the War  
Adam Broad For Congress  
Anthropocene Alliance  
Beyond Extreme Energy  
Beyond Nuclear  
Biofuelwatch  
Businesses for a Livable Climate  
CatholicNetwork US  
Center for Biological Diversity  
Climate Hawks Vote  
Coalition for a Nuclear Free Great Lakes  
Earthkeeper Health Resources  
Family Farm Defenders  
Food & Water Watch  
Fridays for Future U.S.  
Gender and Radiation Impact Project  
Global Alliance for Incinerator Alternatives  
Greater Grand Rapids NAACP  
GreenFaith  
GreenLatinos  
Greenpeace USA  
Institute for Policy Studies Climate Policy Program  
International Marine Mammal Project of Earth Island Institute  
John Muir Project of Earth Island Institute  
Just Transition Alliance  
MADRE  
Nevada Nuclear Waste Task Force  
Nuclear Age Peace Foundation  
Nuclear Information and Resource Service  
Oil and Gas Action Network  
Oil Change U.S.  
On Behalf Of Planet Earth  
Partnership for Policy Integrity  
Rachel Carson Council  
RapidShift Network  
Small Business Alliance  
SOLARTOPIA  
System Change Not Climate Change  
The Natural History Museum  
United Methodist Women  
Women's Earth and Climate Action Network (WECAN)  
Women's Environment and Development Organization (WEDO)

## State, Local, and Regional Signatories

350 Conejo / San Fernando Valley	Council on Intelligent Energy & Conservation Policy (CIECP)
350 Eugene	Don't Waste Michigan-Sherwood Chapter
350 Hawaii	Don't Waste Arizona
350 Seattle	Don't Waste Michigan
Activist San Diego	Earth Action, Inc.
Alliance for a Green Economy	Eco-Justice Collaborative
Ban Michigan Fracking	Ecological Options Network
Beaver County (PA) Marcellus Awareness Community (BCMAC)	Education, Economics, Environmental, Climate and Health Organization (EEECHO)
Between the Waters	Extinction Rebellion PDX
Black Hills Clean Water Alliance	Extinction Rebellion San Francisco Bay Area
CA Businesses for a Livable Climate	Fairbanks Climate Action Coalition
California Communities Against Toxics	Flint Rising
California Green New Deal Coalition	Florida Rising
Call to Action Colorado	Georgia Conservation Voters
Cape Downwinders	Green Education and Legal Fund
Central Florida Jobs with Justice	Green State Solutions
Chesapeake Physicians for Social Responsibility	Hudson River Sloop Clearwater
Citizens Awareness Network	I-70 Citizens Advisory Group
Citizens Resistance At Fermi Two	Indian Point Safe Energy Coalition
Climate Jobs PDX and Jobs with Justice PDX	Indivisible Ambassadors
CO Businesses for a Livable Climate	Ironbound Community Corporation
Concerned Citizens for SNEC Safety	Jersey Shore Nuclear Watch
Concerned Families of Westchester	Let's Green CA!

Michigan Environmental Justice Coalition  
Mid-Missouri Peaceworks  
Montbello Neighborhood Improvement Association  
Native Movement  
North American Water Office  
North Range Concerned Citizens  
Nuclear Energy Information Service (NEIS)  
Nuclear Watch South  
Occupy Bergen County  
Ohio Nuclear Free Network  
OPAL Environmental Justice Oregon  
Oregon Conservancy Foundation  
Oregon Physicians for Social Responsibility  
Peace Action Maine  
PeaceWork of Greater Brunswick  
Physicians for Social Responsibility-Los Angeles  
Resist Spectra  
Richmond People's Movement Assembly  
River Valley Organizing  
Rocky Mountain Peace and Justice Center

Rogue Climate  
SafeEnergyAnalyst.org  
Safe Energy Rights Group  
Safe Energy Rights Group (SEnRG)  
Sane Energy Project  
Seacoast Anti-Pollution League  
Social Ecological Education-LA (SEE)  
Stop Nuclear WorkGroup of CedarAction  
Sunflower Alliance  
Syracuse Peace Council  
Terra Advocati  
The Green House Connection Center  
Unite North Metro Denver  
Uranium Watch  
Vermont Yankee Decommissioning Alliance  
Wall of Women  
Waterspirit  
We Want Green Too  
Womxn from the Mountain  
Workers Center of Central NY

## ADDENDA

### 1. Legislative Citations in the Build Back Better Act (H.R. 5376)

- **Nuclear Production tax credits: SEC. 136108.** Zero-Emission Nuclear Power Production Credit. Estimated at \$15.932 billion.
- **Biofuels tax credits: SEC. 136202.** Extension of Second Generation Biofuel Incentives. Estimated at \$33.917 billion.
- **Biomass energy tax credits: SEC. 136101. Extension and Modification of Credits** which includes biomass power plants, and **SEC. 136102. Extension and Modification of Energy Credit. (f)** which includes "qualified biogas property" as qualifying for credits.
- **Biofuel development: SEC. 30109.** Funding for Section 211(O) of the Clean Air Act. **(b)** Investments in Advanced Biofuels. \$10 million.
- **Biofuels Infrastructure Program: SEC. 12006.** Biofuel Infrastructure and Agriculture Product Market Expansion. \$960 million
- **Carbon Capture and Storage tax credits: SEC. 136106.** Extension and Modification of Credit for Carbon Oxide Sequestration. In reference to **SEC. 45Q** of the tax code. Estimated at \$908 million.
- **Hydrogen tax credits: SEC. 136204.** Clean Hydrogen, in reference to **SEC. 45X** of the tax code, Credit for Production of Clean Hydrogen. Estimated at \$9.118 billion.
- **Waste-to-energy tax credit: Section 136101.** Extension and Modification of Credit for Electricity Produced from Certain Renewable Resources, includes municipal waste-to-energy.

### 2. Risks of False Climate Solutions Technology and Expenditures

#### Nuclear energy production

Many groups across the country have already vocalized [opposition to the nuclear production tax credit](#) and we join in opposition. The bipartisan infrastructure bill already contains \$6 billion in Civil Nuclear Credits. This Nuclear Production Tax Credit will only add to environmental health and justice risks of subsidizing aging nuclear reactors, increasing uranium extraction, energy production, and waste disposal on Indigenous nations and communities and, Black, and People of Color communities.

#### Biofuels and biomass fuels

Research assessing the full life-cycle of biofuels shows they are not carbon neutral when accounting for land-use changes, carbon cycle disruption, processing and transport emissions, and end-use emissions. Biofuels are net contributors to atmospheric emissions [for at least five decades](#) before they begin reabsorbing carbon. This timescale is incompatible with the emissions reductions needed and would contribute to increasing carbon emissions in the near-term. Wood-burning biomass energy demand is also driving deforestation and pollution in the Southern U.S. Carbon recycling from regrowing trees will take decades [while wood-burning contributes to emissions](#) in the near term, and contributes high

rates of local pollution. Land-use changes from biofuel production also competes with food production and can disrupt agricultural systems.

### **Carbon Capture and Storage, and Carbon Capture and Utilization**

For decades the promises of carbon capture technology have not materialized, while public funds have supported research and development of what continues to remain a set of haphazard unproven technologies that do not reduce emissions. Firstly, carbon capture technology from gas and coal-fired power plants and other polluting facilities only attempts to address carbon emissions, allowing other pollutants like NO<sub>2</sub> and PM 2.5 particulate matter to be emitted unabated, leaving communities that live near polluting facilities to bear harmful public health impacts of pollutants.

Secondly carbon capture is technically challenging and requires a large amount of energy including fossil fuel energy to power carbon capture technologies. Once the carbon is captured, massive infrastructure is required to transport and pump the captured carbon into the ground. The reliability of captured carbon to remain underground without leakage remains uncertain. Study has found CCS is [not capable of operating](#) with zero emissions, and the technology would not be viable at scale at the speed required to reduce emissions in line with addressing rising global temperatures.

Finally the 45Q tax credit supports use of captured carbon in enhanced oil recovery (EOR). Credits for this type of carbon use are contrary to climate goals of this Administration. CCS technology will not only prolong coal burning and gas production, but carbon used in [EOR extends the life of oil fields](#) for extraction that pollutes watersheds and contributes to carbon emissions. To-date 81% of carbon captured [has been used](#) for further oil extraction via EOR. This means CCS is being predominantly used for carbon-emitting oil extraction that wouldn't have otherwise been viable. Investments and incentives for carbon capture and storage are handouts to fossil fuel corporations for continued fossil fuel extraction and pollution that harms already burdened communities, and would be better spent on direct carbon emissions reduction. These investments are a step backwards in addressing the climate crisis.

### **Hydrogen**

Hydrogen is a power-carrier, not a power generator. While energy storage technology is critical for the transition to a renewable energy economy, [more than 95 percent of hydrogen](#) in use today is produced using fossil fuels. Large scale “green” hydrogen production for heat and power is a stratagem to prop up fossil fuels and lock in pipeline infrastructure. This would need to draw large amounts of clean electricity from the grid, possibly undercutting electrification of major polluting sectors such as buildings and light-duty transportation. Hydrogen combustion can emit as much as 6 times more [nitrogen dioxide](#), a source of ozone, compared to natural gas. Producing hydrogen also requires intensive water use and increased hydrogen production could lead to severe water stress, already a significant issue in some parts of the country.

### **Waste-to-Energy waste incineration**

Waste-to-Energy produces energy for electricity by burning municipal solid waste and is considered a renewable energy source in some states. However compared to burning coal, greenhouse gas emissions from waste incineration and local pollutant emissions are higher. Waste incineration facilities are [disproportionately located](#) in communities of color, and in addition to greenhouse gas emissions, emit hazardous air pollutants that cause [cancer and other diseases](#). Burning waste for energy is racially inequitable and causes egregious health harms.

### **Fossil fuel subsidies**

The Build Back Better Act as written retains billions of dollars in handouts to the fossil fuel industry in the form of subsidies and tax incentives. For decades U.S. taxpayers [have footed the bill](#) for fossil fuel corporations' dangerous operations. Continued subsidies for the coal, oil, and gas industries lock-in future emissions and pollution, and contradicts the climate goals of the Build Back Better agenda and the President's own commitment to repeal these dangerous subsidies that contribute to the climate crisis. These subsidies largely [do not create jobs](#), but only widen the profit margins of fossil fuel companies. In August of 2021 [fifty-four Members of Congress](#) called to repeal all fossil fuel subsidies in the Build Back Better Act, and in September the [Congressional Progressive Caucus re-affirmed](#) this request. We join them in calling for the removal of all fossil fuel subsidies in this bill.