

June 12, 2024

RE: NDAA – PLEASE VOTE NO ON 23. BIGGS ANTI-ESA AMENDMENT #441

Dear Representative:

On behalf of our organizations and our millions of members and supporters, we urge you to vote NO on 23. *Rep. Biggs (R-AZ) Amendment #441* to the National Defense Authorization Act (H.R. 8070) which would exempt defense related activities from the Endangered Species Act (ESA). The Department of Defense has long worked with the expert wildlife agencies to ensure it meets its obligations under the ESA while still maintaining military readiness. At a time when our planet is facing an extinction crisis of epic proportions, Congress should not be undermining our most effective tool for preventing extinctions.

The Biggs amendment, which has been reintroduced despite being soundly defeated with bipartisan support last year, would take sweeping action to essentially exempt the U.S. military from compliance with the ESA.

- The amendment prohibits the Secretary from designating as critical habitat any military installation or National Guard installation, or any other lands or waters designated for use by the Defense Department – including defense contractors – that the Secretary of Defense deems necessary for training, weapons testing or any other reason.
- The amendment also exempts the Secretary of Defense from consulting under Section 7(a)(2) of the ESA to ensure that Defense Department actions do not jeopardize the continued existence of an endangered or threatened species or result in destruction of critical habitat for such species (regardless of whether the area in question is subject to an integrated natural resources management plan under the Sikes Act).
- Finally, the amendment exempts military personnel – including contractors and even employees of non-military agencies – engaged in national defense-related operations, including research, weapons testing, training, and any action the Secretary of Defense deems necessary to support the Defense Department’s mission, from the prohibitions on taking endangered species in Section 9 of the ESA.

This amendment would thus carve a huge and needless loophole in the ESA for all manner of military activities, including activities of a multitude of industrial contractors and subcontractors, exposing endangered and threatened species to unrestricted harm and possible extinction. The lands managed by the Department of Defense are an essential component of our nation’s biodiversity. The Department of Defense manages approximately 27 million acres of land on 338 military installations. These lands support the preservation of ecologically important native habitats such as old-growth forests, tall-grass prairies, coastal beaches, and wetlands, making military installations a haven for fish, wildlife, and plants, including rare and unique species. Over 400 threatened and endangered species live on DOD-

managed lands. Public access to many of these sites is limited due to security and safety concerns, sheltering them from disturbance and development.

There is no evidence that compliance with the ESA threatens the nation's military security. The Department of Defense has long worked, in partnership with the U.S. Fish and Wildlife Service, and state wildlife agencies, to conserve fish and wildlife resources, including imperiled species, on military lands. Under the Sikes Act, 16 U.S.C. § 670, the Department of Defense develops and implements integrated natural resources management plans to manage and protect natural resources, including listed species, on military lands. Military lands are already excluded from designation as critical habitat where such plans provide a benefit to listed species. 16 U.S.C. § 1533(a)(3)(B)(i). Exempting the Department of Defense and its many industrial contractors from compliance with the ESA puts our nation's natural legacy at needless risk.

Again, please vote NO on 23. *Biggs Amendment #441* in the National Defense Authorization Act. Thank you for your consideration.

Sincerely,

American Bird Conservancy
Animal Legal Defense Fund
Animal Welfare Institute
Attorneys for Animals, Inc.
Bat Conservation International
Birds Georgia
CalWild
Cascadia Wildlands
Center for Biological Diversity
Coalition on the Environment and Jewish Life
Defenders of Wildlife
Earthjustice
Endangered Species Coalition
Environmental Protection Information Center - EPIC
FOUR PAWS USA
Friends of Blackwater, Inc.
Friends of the Earth Action
Gaviota Coast Conservancy
Humane Action Pennsylvania
Humane Action Pittsburgh
International Fund for Animal Welfare
John Muir Project
Klamath Forest Alliance
Los Angeles Audubon Society
Maine Audubon

National Parks Conservation Association
Natural Resources Defense Council
North Central Washington Audubon Society
NYC Plover Project
Oceana
Potomac Valley Audubon Society
Rocky Mountain Wolf Project
Save Animals Facing Extinction
Save Our Sky Blue Waters
Save the Manatee Club
Shining Horizons Land Management
Sierra Club
Southern Environmental Law Center
The 06 Legacy
The Conservation Angler
The Cougar Fund
The Urban Wildlands Group
Turtle Island Restoration Network
Washington Wildlife First
Western Watersheds Project
WildEarth Guardians
Wildlife Conservation Society
Wyoming Untrapped
Wyoming Wildlife Advocates