July 17, 2018

The Honorable John Barrasso The Honorable Tom Carper

Chairman Ranking Member

Environment and Public Works Committee Environment and Public Works Committee

United States Senate United States Senate

Washington, DC 20510 Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The Senate Environment and Public Works committee meets today for a hearing on Chairman Barrasso’s draft legislation entitled the “Endangered Species Act Amendments of 2018,” a bill that would more aptly be named the “Eliminating Species Act.” Given that the Endangered Species Act (ESA) has proven highly effective at preventing the extinction of species under its care, we strongly believe this is nothing more than a politically motivated attempt to undermine this successful, popular law at the expense of sound science and the conservation of imperiled species. We write on behalf of our millions of members and supporters to express strong opposition to this draft legislation.

The Endangered Species Act is our nation’s most effective law for protecting wildlife in danger of extinction. By the U.S. Fish and Wildlife Service’s own statistics, 99 percent of species listed under the Act have survived, and many are on the path to recovery. On May 18, 2018, nearly 1,500 scientists sent a letter[[1]](#footnote-1) urging Congress not to weaken the Endangered Species Act because it is one of the most successful pieces of legislation and uses the best available science to help imperiled species recover. Given this incredible success, it should come as no surprise that the ESA is also extremely popular, earning the support of 90 percent of voters.[[2]](#footnote-2) The American public expects that our rich biological heritage will be preserved for future generations to enjoy and the ESA ensures that the nation meets that expectation.

The draft legislation would dramatically weaken this effective and popular wildlife conservation law. The bill would:

* Undermine the ESA’s reliance on science, especially in recovering species;
* Give states the ability to veto endangered species restoration projects;
* Make it harder to protect imperiled species by requiring recovery goals at the same time as listing;
* Undermine citizen court access and reduce public involvement and agency accountability; and
* Slow agency conservation actions by requiring cumbersome and unnecessary new procedures

This damaging bill seeks to impose state control over the most important processes to list, protect, and recover imperiled species under the ESA — even though states already have broad opportunities to engage in the ESA process. Moreover, states lack the legal authority, resources and political resolve to implement the ESA. A 2017 study[[3]](#footnote-3) by the U.C. Irvine School of Law found that:

* + Only 4% of states have authority to promote the recovery of imperiled species;
  + Only 5% of spending on imperiled species is by the states; and
  + Only 10% of states have significant habitat safeguards.

There is no reason to believe that the current effort to “reform” the ESA is anything other than a thinly veiled attempt to gut the law, given that members of Congress have repeatedly tried to do just that. In the 115th Congress alone, there have already been more than 100 individual legislative attacks on the ESA, including efforts to both remove protections for specific species and to undermine the law itself. These attacks are often made in the name of corporate interests, placing short-term economic gain above long-term conservation efforts and demanding changes that would create significant barriers to species protection.

Moreover, industry opponents to the ESA frequently site statistics that are wholly misrepresentative not only of the law’s effectiveness, but of the science behind species recovery. Recovery within a relatively few years is simply inaccurate as a metric for success. Furthermore, species are often only listed under the ESA after decades of decline under state management, and only once they have reached “emergency room status.” The ESA saves species by preventing extinction and setting them on the long road to recovery. That is the measure of the law’s profound success.

The ESA contains immense flexibility including incidental take permits for land use and other otherwise prohibited activities; cooperative agreements to encourage collaboration and to provide aid to states for conservation projects; and candidate conservation agreements to avoid the need for a formal ESA listing. This flexibility has repeatedly served to reconcile the imperative to save species from extinction and industry concerns.

Recognizing the proven success, immense popularity, and flexibility provided under the law, there is simply no justifiable explanation for this draft legislation or any of the other more than 100 damaging changes to the Endangered Species Act proposed in this Congress.

Sincerely,

1. https://s3.amazonaws.com/ucs-documents/science-and-democracy/esa-letter-final-may-18-2018.pdf [↑](#footnote-ref-1)
2. https://defenders.org/press-release/new-national-poll-finds-90-percent-american-voters-support-endangered-species-act [↑](#footnote-ref-2)
3. http://www.law.uci.edu/centers/cleanr/news-pdfs/cleanr-esa-report-final.pdf [↑](#footnote-ref-3)