

June 21, 2018

The Honorable John Barrasso
Chairman
U.S. Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

Thank you for soliciting input from Western Landowners Alliance regarding the Endangered Species Act Amendments of 2018 draft bill. We appreciate the work you and your staff have put into the draft bill and wish to provide the following comments.

The Western Landowners Alliance (WLA) is made up of members from 10 western states. Our organization represents more than 14 million deeded and leased public acres in the West. WLA works to advance policies and practices that sustain working lands, connected landscapes and native species. Despite much rhetoric, landowners in the West enjoy and value wildlife and support conservation. Healthy landscapes and healthy economies go hand in hand. Investments in conservation integrated into working landscapes yield clear returns to taxpayers and provide for the well-being of human communities. The Endangered Species Act (Act) should be viewed and applied as originally intended—a last stop measure to prevent species extinction, not as a tool to advance anti-grazing or other agendas. The primary public policy emphasis should not be on dismantling or defunding implementation of the Act, but on cost-effective, pro-active solutions that avoid the need to list species in the first place and to accelerate recovery of those that are listed.

As you are aware, the Western Governors Association (WGA), under the chairmanship of Wyoming Governor Matt Mead, led an inclusive and collaborative initiative to explore ways to improve species conservation and the Act. WLA participated in this initiative and was pleased with the process and the efforts of participants to address species conservation in a constructive, non-partisan manner. WLA priorities for species conservation were discussed throughout this process and are reflected in several of the recommendations adopted by the WGA. Generally, these priorities include working with landowners to implement conservation practices for the benefit of species, providing funding for proactive, voluntary conservation, and assuring states and federal agencies have the appropriate resources to work towards both proactive conservation and species recovery.

The draft bill considers many of WLA's priorities. It also includes proposed amendments where WLA has not weighed in and amendments that we believe require additional discussion. These items are discussed in detail below.

Title I – Enhancing the Federal-State Partnership

Sections 102-107.

WLA did not provide extensive input on the role of States through the WGA process. Our organization supports increasing the role of States in species recovery. However, we recognize that priorities, budgets, and landscapes differ from state to state and this impacts how they participate in species conservation efforts. States (or federal agencies) may also introduce bias into recovery efforts, complicating those efforts and potentially impairing or prolonging species recovery. Ultimately, delays in recovery efforts adversely impact both species and landowners. Additionally, authority already exists for states to exercise concurrent jurisdiction with federal agencies to implement the Act.

The draft bill contains measures for the Secretary to evaluate the roles of States and make changes as appropriate. However, this is an important topic that should be discussed in more detail with a broad audience to determine the best way for States to partner with federal agencies in recovery efforts.

Section 104.

While we understand the interest of states in potential federal land acquisitions, state intervention in the sale of private land encroaches on the rights of private property owners. In addition, states have the ability to comment on land acquisitions through National Environmental Policy Act planning processes. WLA is concerned that this proposed amendment will add weight to State comments while reducing the voice of private landowners directly involved in land acquisitions. It is also unclear if "land" refers to surface only or includes minerals and/or water right acquisitions.

Section 108.

WLA has no position on this Section.

Section 109.

WLA recognizes the need for federal employees to be responsive to landowners, States, and local governments but are uncertain if this is the appropriate mechanism to ensure this happens.

Title II – Encouraging Conservation Activities through Regulatory Certainty

Sections 201-205.

Sections 201-205 improve opportunities for landowners and others to enter into agreements that provide certainty, incentivize species recovery and improve on-the-ground conservation practices. Section 202, in particular, provides certainty that conservation agreements endorsed by the Secretary shall be considered a regulatory mechanism. Opportunities for voluntary conservation and providing certainty for landowners is a priority for our organization and our members. Generally, WLA supports the amendments proposed in this section.

There are two areas that warrant further discussion. First, for conservation agreements to serve as regulatory mechanisms, participants in voluntary wildlife conservation agreements must be held to similar standards as other conservation mechanisms within the Act, such as Candidate Conservation Agreements with Assurances and Safe Harbor Agreements. These agreements require participants to develop an implementation plan with clear actions and goals. If actions and goals are not met, the Secretary must have the authority to re-authorize a listing process. Additionally, if a landowner enters into a conservation agreement and implements conservation measures in good faith, but is later advised that those changes are not adequately conserving species, that landowner should not be penalized.

Second, conservation agreements and practices are only meaningful if funding is provided for technical assistance and to the landowners/participants implementing projects and practices. Pro-active species conservation is an investment and that needs to be reflected in funding for this bill. The financial burden of species conservation cannot lie squarely with those who manage the habitat of imperiled species. WLA understands the difficulty of determining appropriate funding, but it is imperative that this conversation continues to advance and that Congress authorizes funding for species recovery and pro-active conservation.

Title III – Strengthening Conservation Decision Making through Increased Transparency

Sections 301-304.

WLA is generally supportive of the amendments proposed in Section 301-304. We want to ensure landowner data is protected but recognize that increased transparency is important to support listing decisions. This section may need additional review to ensure these two values are balanced.

Title IV – Optimizing Conservation through Resource Prioritization

Section 401.

There is a need to prioritize listing petitions, reviews and determinations to ensure that those species that demand immediate resources for their conservation receive a timely and thorough review and determination – regardless of outside pressures. WLA appreciates the emphasis on conservation activities and the recognition that these activities will be considered in the prioritization process.

Allowing a 7-year work plan has the potential to create a crisis where the delay in making a decision on whether or not to list a species creates a permanent backlog that could be difficult to address, further harming species in need and increasing pressure on landowners. No amount of prioritization or extended timelines will address or accelerate species recovery efforts if the U.S. Fish and Wildlife Service lacks the resources to meet the demands. Adequate funding for staff and recovery efforts is necessary to process status reviews and accompanying 12-month findings in a timely manner that is in the best interest of the species under consideration and in the best interest of affected landowners. To reduce the rising costs to landowners and taxpayers associated with threatened and endangered species, investment is needed on the front end to increase pro-active, voluntary conservation, avoid the need to list species in the first place and recover those species that are listed more quickly.

Title V – Studies to Improve Conservation

WLA takes no position on the proposed studies.

Title VI – Reauthorization

WLA supports re-authorization of the Act with sufficient funding to get ahead of the curve and better support landowners in the conservation and recovery of wildlife species. WLA looks forward to participating in continued conversations related to funding.

In closing, WLA is interested in working with you to further refine portions of the draft bill. A broader, in-depth conversation regarding this bill is necessary and we are willing to assist you in bringing stakeholders together for those conversations. Please do not hesitate to contact us for further comment or assistance.

Again, thank you for the opportunity to provide comment.

Sincerely,



Lesli Allison
Executive Director