



WYOMING WATER DEVELOPMENT OFFICE

6920 Yellowtail Road
Cheyenne, WY 82002

Phone: (307) 777-7626
wwdc.state.wy.us

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Harry C. LaBonde, Jr., P.E.
Director

June 6, 2018

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

Subject: Modernization of the Endangered Species Act (ESA)

Dear Senator Barrasso,

I have had the opportunity to review proposed legislation which modernizes the ESA. The implementation of this 1973 act has dramatically changed from the original intent of the act to how it is now used stop or impede uses of lands and water within this country. In some cases it has reversed 100 plus years of historical land and water use in this country. For these reasons, the ESA is truly in need of modernization.

There are several sections of the proposed legislation that call for needed structural changes in the administration of the act and I would like to mention a few of them. Specifically:

- Section 102 requires the establishment of recovery goals, habitat objectives or other criteria at the time a listing rule is issued. This is needed so all parties know at the start of a recovery process, what is to be accomplished and how it will be beneficial to the listed species.
- Section 102 requires certain time frames for action by the Secretary when a species is proposed to be listed or delisted. In the current process, affected parties have waited years to learn what actions agencies may be taking in this regard. Defining the schedule expectations is appropriate.
- Section 102 requires the Secretary to solicit from impacted States a request to establish a recovery team and provides a one (1) year window to establish a science based recovery team. States are then able to appoint members to the recovery team which creates balance in a process which is now dominated by federal agencies and environmental organizations. One suggestion: The current language states, “relevant State and local land and wildlife management agencies from each impacted states” I would suggest that “water” management agencies be included as well. As we know water is a key component in many ESA programs.
- Section 107 requires that States be consulted when legal settlements are being contemplated by the Secretary. States absolutely need to be able to provide their positions on settlements that impact the citizens of their states.

- Title II recognizes the importance of conservation agreements in protecting target species and provides protections to landowners in their use. With this reform, these types of landowner agreements can take on a greater significance in species recovery.
- Section 304 provides States with notice in legal proceedings, the right to intervene in legal actions, and disclosure of plaintiff's legal fees being paid by agencies. These provisions will provide balance in a process which is currently exploited by plaintiffs.

In summary, the Wyoming Water Development Office very much supports the proposed legislation to modernize the ESA and believes it will result in more effective recovery programs for listed species. It will focus the ESA on providing scientific based recovery programs and allows the impacted States a voice in the process.

I very much appreciate you bringing this legislation forward and offer my support in that endeavor. If you should have any questions, please feel free contact me.

Respectfully,

Harry C. LaBonde Jr., P.E.
Director