



## Westlands Water District

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July 6, 2018

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

RE: The Endangered Species Act Amendments of 2018

Dear Dr. Barrasso:

I am writing on behalf of Westlands Water District to express the District's support of your efforts to modernize the Endangered Species Act of 1973 through the proposed "Endangered Species Act Amendments of 2018." The Endangered Species Act was enacted forty-five years ago, and it is incomprehensible that the Act has been left unchanged for four and a half decades, despite the lessons learned through its implementation over that long period. In its existing form, the Endangered Species Act not only fails communities, businesses, and property owners, it often fails the species it was enacted to protect from extinction. In California, there are numerous case studies demonstrating that the Endangered Species Act is in dire need of modernization. Westlands applauds your leadership in this effort.

Westlands Water District is a public agency of the State of California, created by the State Legislature for the primary purpose of supplying irrigation water to approximately 600,000 acres on the westside of the San Joaquin Valley in Fresno and Kings Counties. Farmers served by Westlands produce more than sixty high-value crops, including permanent crops such as almonds, pistachios, and citrus as well as row crops such as melons, sweet corn, broccoli, and lettuce. Westlands' principal source of water is the Central Valley Project, a reclamation project operated by the United States Bureau of Reclamation. Over the last twenty-five years, the quantity and reliability of Central Valley Project water available to Westlands and the farmers it serves has continuously diminished because of the Endangered Species Act's implementation. Today, because of biological opinions issued by the Department of the Interior's United States Fish and Wildlife Service and the Department of Commerce's National Marine Fisheries Service pursuant to Section 7, Westlands can expect, on average, to receive only 35 – 40% of the water it contracts with the United States to purchase. Sadly, the numerous species sought to be protected by these biological opinions have continued to decline, often because of the mandates of the Endangered Species Act.

The Endangered Species Act was intended to encourage “the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards”. The authors of the Act anticipated it would be applied in a way that would foster collaboration and efficiency to further its purposes. Unfortunately, the Act has been implemented in a manner that fosters litigation, rather than collaboration, and often leads to absurd results, including inter-species conflict.

It is Westlands understanding that the text of the “Endangered Species Act Amendments of 2018” released on July 2, 2018, is a discussion draft that will be amended through the Senate’s legislative process. While the current text of the legislation would vastly improve transparency and regulatory certainty, Westlands believes that additional amendments of the Endangered Species Act will further its original purpose and your objectives in introducing the legislation. For instance, in its present form, the Act often requires a species-by-species approach to protection of listed species, and this often leads to inter-species conflict. One potential improvement to the Act would be to provide for a more holistic approach to systemwide species protection, which could be accomplished, at least in part, by consolidating authority to administer the Act in a single Department, the Department of the Interior.

In addition, Westlands is eager to suggest other potential amendments that would clarify provisions of the Endangered Species Act Amendments of 2018. As an example, in its present form, the text of the legislation could be interpreted, as making applicable to proposed federal actions, state laws of general application enacted by states to protect listed species. It is Westlands’ hope the draft legislation would be amended to clarify that state laws of general application will not affect the Section 7 consultation process.

Again, thank you for your leadership in efforts to modernize the Endangered Species Act. Westlands looks forward to working with you and your staff to achieve enactment of this important legislation.

Very truly yours,

A handwritten signature in black ink that reads "Thomas W. Birmingham". The signature is written in a cursive, flowing style.

Thomas W. Birmingham  
General Manager