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## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, STAFF DIRECTOR  
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August 15, 2008

The Honorable Dirk Kempthorne  
Secretary of the Interior  
Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

Dear Mr. Secretary,

I write to express my great concern with the proposed revisions to the Endangered Species Act regulations that were unveiled this week, and to invite you to testify on endangered species issues at an oversight hearing of the Environment and Public Works Committee on September 24, 2008. The proposed regulations greatly undermine the Act's purpose to conserve endangered and threatened species and appear to contravene the plain language of the Act. I therefore urge that you discontinue any further action on the proposed rule.

Among the many serious flaws in the draft regulations is that they would allow federal action agencies to decide unilaterally that consultations with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service are not necessary—consultations that are required by law and that have been important to the conservation and protection of endangered and threatened species.

It is vital that the Fish and Wildlife Service and the National Marine Fisheries Service, the nation's primary wildlife agencies and the agencies with the most scientific expertise and experience, retain their responsibility in making such determinations. Instead, the proposal dramatically increases the likelihood that harmful agency actions will move forward without independent review by experts in the Services.

Additionally, I am concerned about the timing of the proposed regulatory changes. By proposing these considerable changes with only a short time remaining in the Administration's term, your office appears to be attempting, in effect, to make changes to the Endangered Species Act that the Administration has been unable to achieve through legislation. Indeed, some of these proposals were included in legislation that failed to pass during the 109<sup>th</sup> Congress. Instead of seeking to rewrite key provisions of the Endangered Species Act through last-minute regulations, changes to the Act, if any, must be made by Congress, after thorough review and consideration.

I urge you to discontinue further action on this proposal. If you proceed with this rulemaking, given the breadth of this proposal and its and potentially dramatic impacts on endangered species, I strongly urge that public hearings be held on this matter, and that you extend the public comment period from 30 days to six months.

Sincerely,



Barbara Boxer  
Chairman