



National Association of Home Builders

1201 15th Street NW
Washington, DC 20005

T 800 368 5242
F 202 266 8400

www.nahb.org

Government Affairs

James W. Tobin III
Executive Vice President & Chief Lobbyist
Government Affairs and Communications Group

July 16, 2018

The Honorable John Barrasso
United States Senate
307 Dirksen Senate Office Building
Washington, DC 20515

Dear Senator Barrasso:

On behalf of the 140,000 members of the National Association of Home Builders (NAHB), I am writing to applaud your commitment to improving the Endangered Species Act (ESA). We believe that the draft legislation you authored, the Endangered Species Act Amendments of 2018, is an excellent starting point towards reforming the ESA because it would make needed improvements that would benefit species, landowners and the federal agencies charged with enforcing the law.

We are pleased that this legislation encourages the states to take on a greater role in protecting threatened or endangered species. It would require the Secretary of the Interior to consult with the states when listing a species and provide clear recovery goals and habitat objectives that, if met, would lead to the delisting of a species. NAHB believes that state's resources, including data, science and expertise, should be considered in species conservation efforts, listing and delisting decisions, and the recovery process. However, we also believe that private landowners, business owners and the regulated community have valuable expertise to contribute to these decisions, and we encourage you to create a meaningful role for these stakeholders. Gaining state and local involvement and input from the regulated community will lead to a more successful ESA.

We also applaud the emphasis your draft legislation places on pre-listing conservation activities. It would help provide regulatory certainty when engaging in conservation agreements by establishing clear procedures and guidelines. Additionally, it would also optimize conservation efforts by creating a prioritization system for addressing listing petitions, reviews and determinations to ensure that resources are directed towards our nation's most vulnerable species. These modifications are a great first step towards improving the functionality of the ESA.

Finally, this legislation stresses the importance of using sound science with greater transparency when making decisions such as listing or delisting species. NAHB supports the notion that data used in making these decisions should be made publicly available and that there should be collaboration and consultation with states and local entities in order to ensure that the "best available scientific" requirement is met. However, NAHB has serious concerns about language in the draft bill that would prohibit any stakeholder from obtaining information through the Freedom of Information Act. While we understand the desire to protect private landowner's personal information, we believe it is more important to have access to the information that is used in making ESA decisions.

It is time for Congress to make changes to the ESA, and we commend you for starting this important conversation. There have been very few meaningful changes to the ESA since its enactment in 1973; consequently, most species have failed to recover. It is estimated that only three percent of species have recovered under ESA, which indicates that the law is not working and improvements need to be made.

NAHB supports many aspects of this legislation but we believe that changes still need to be made in addition to the concerns in this letter. As this bill works its way through the legislative process, we look forward to working with you and the Environment and Public Works Committee to ensure that more sensible protections are provided for our nation's endangered species while also continuing to allow our businesses to thrive. Thank you for giving consideration to our views.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Tobin III". The signature is stylized and cursive, with the first name "James" being the most prominent part.

James W. Tobin III