

11 June, 2018

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

Dear Senator Barrasso:

As you are aware, the Wyoming Farm Bureau Federation has been active in issues surrounding endangered species. As we have worked to protect the 2,600 agricultural producers we represent throughout the state of Wyoming, it has become apparent that changes should be made to the Endangered Species Act (ESA). Over the years there have been attempts to help citizens affected by endangered species by amending the act. Our leaders have had numerous discussions on what could help our members cope with the sometimes, onerous provisions of the ESA. **The “Endangered Species Act Amendments of 2018” addresses many of the concerns we've had over the years and our organization certainly supports the proposed legislation.**

Experience with wolf introduction and efforts to delist that species along with grizzly bear delisting which has reached population objectives established by the scientific community for recovery; has shown that something needs to be done to facilitate endangered or threatened species removal from ESA management.

State involvement in endangered and threatened species recovery, while contemplated by the ESA, needs to be expanded. Listing of species by the Fish and Wildlife Service has happened in a vacuum over the years. States where these species live have often been provided only cursory input into potential management programs, even though the impacts to the citizens in that state can be significant. This needs to change. States need to be treated more as a partner in endangered species listing. The information states have available need to be considered and utilized when decisions are made on whether to list a species or not.

Once listed, species need to have a recovery process that is adhered to. Our experience has been that once a recovery goal is established, then special interest groups set about to change the goal posts. The current process forces landowners and users away from a cooperative process into an adversarial process. Getting the delisting or downlisting process right from the get go could unleash a cooperative process that will help the species. Something that cannot be said by the present process.

Providing landowners certainty in what is expected through clear recovery goals and habitat objectives lends itself to better cooperation. Getting states to lead this effort will help relieve some of the tension between landowners and the federal agencies. Providing states input on recovery processes will also help reduce these tensions.

Limit judicial review of delisting decisions by the Fish and Wildlife Service. We've seen in a dynamic natural system there will always be something that hasn't been considered by the Fish and Wildlife Service. Anyone who has dealt with those systems is well aware of this fact, but we've seen delisting or downlisting decisions made by species professionals in the Fish and Wildlife Service second guessed by judges with little or no experience in natural systems. These judges appear to let their biases rule their decisions where there is not a legitimate issue.

An example of this would be the Fish and Wildlife Service's decision to delist the grizzly bear in the Greater Yellowstone Area. The species had reached the recovery goals and the the Fish and Wildlife Service set about to delist the species so it could focus its limited resources on species in need of help. Instead, a judge overruled the the Fish and Wildlife Service's decision because they had not adequately analyzed the impact of white bark pine trees on the bear. The Fish and Wildlife Service then went back and studied the impact white bark pine trees had on the species and concluded that there would not be a significant impact.

Several years later the Agency once again proposed delisting the species. The Federal Register notice noted that the grizzly bears in that region are one of the most studied species ever. If the previous Fish and Wildlife Service decision would have been allowed to go forward, the post delisting monitoring would have provided ample forewarning should white bark pine be critical to the species and steps could have been taken to protect the species. All of this would have happened several years and millions of dollars earlier. A much better outcome with reduced expenditures. Plus the Fish and Wildlife Service may have been able to focus scarce resources on other more imperiled species.

States should be part of the process. Again, with limited resources, it only makes sense that the Fish and Wildlife Service utilize resources in the states. This limits the Fish and Wildlife Service's financial resources while availing themselves of expertise from, many times, those closest to the species. Allowing states the opportunity to participate, if not lead this process again draws the process closer to the collaborative process envisioned by the ESA.

Allowing states to have greater say in the 10(j) process will foster a greater partnership between the federal government and the states. Wyoming's experience with wolf introduction can be helpful in understanding this process. Also the 10(j) process should allow the Fish and Wildlife Service the necessary flexibility to facilitate recovery. In Wyoming several years ago, the Fish and Wildlife Service worked with some landowners to introduce Black-footed ferrets onto private lands. This process was brought to a halt when an environmental group attempted to sue the Fish and Wildlife Service over their 10(j) rule.

It is imperative that states be part of any settlement processes that might occur between litigants and the federal government. To often we've seen the Fish and Wildlife Service agree to settlements which have huge impacts on states and their citizens. When a state cannot manage their resources because a settlement didn't consider the state's realities it only serves to confirm the short comings of the ESA.

These are some of the issues which we feel should be considered when amending the ESA:

- Again, enhance cooperation between states and the federal government.
- Establish a more open and transparent process that allows parties to understand what the process and goals are.
- Allow the experts the ability to reach delisting or downlisting decisions and allow those

decisions to go forward without incessant legal challenges which serve to erode public confidence in the ESA.

- Once a species is recovered allow the Agency to move on to other species without having to spend years in additional studies and/or litigation to achieve essentially the same outcome. Then allow the Fish and Wildlife Service to set priorities.

All of the proposed changes in the Endangered Species Act Amendments of 2018 will achieve species recovery faster and less expensively than the current process. Our organization certainly supports this effort.

Thanks of your time and effort on this topic.

Sincerely,

Ken Hamilton
Executive Vice President

\\ESA reform support letter to Sen Barrasso