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July 2, 2018

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

RE: Endangered Species Act Amendments 2018 Discussion Draft Legislation

Dear Chairman Barrasso:

Thank you for your thoughtful diligence in evaluating and proposing prospective changes to enhance the application and effectiveness of the Endangered Species Act (ESA). This landmark legislation is without a doubt a singularly important and integral backstop for protecting and recovering our country's most imperiled fish and wildlife species. It is of paramount importance to the stakeholders affected by the ESA and the species it protects to improve and clarify the processes by which it is carried out.

The ESA was conceived and adopted nearly fifty years ago at a very different time and under very different circumstances than exist today. After decades of extensive work with species and habitats, private landowners, many public and private partners, communities, and other constituencies impacted by the ESA, the Texas Parks and Wildlife Department (TPWD) concurs that the time has undoubtedly come to modernize this legislation. We share your perspective that formalizing more proactive state-based engagement in ESA implementation, making provisions to ensure the most relevant scientific information is appropriately considered in listing decisions, and accelerating species recovery efforts are all essential to successful future endangered species conservation work.

Please know, TPWD supports the core concepts laid out in your draft legislation, not the least of which is recognition of the states' unique roles, jurisdictions, responsibility for, and expertise in managing and conserving fish, wildlife, and plant species. TPWD and other state fish and wildlife agencies, as the primary stewards of these resources within our respective borders, should be more formally recognized as significant partners in the process of conserving and recovering those species in most critical need of protection. As such, we support the kind of early and robust engagement that you are seeking to advance with this legislation.

In Texas, our work with the U.S. Fish and Wildlife Service (USFWS) has produced multiple examples that demonstrate how such collaborative efforts can best work. The multi-stakeholder process to develop and implement the Edwards Aquifer Recovery Implementation Plan, the launch of the Houston Toad Safe Harbor Agreement, the various species specific research efforts led by the Texas Comptroller's Office, joint state-federal law enforcement investigations of illegal traffic in protected wildlife species, and the recent conservation success of delisting the black-capped vireo are all examples of substantive collaborations that have had a material and positive impact on both the species and economy of our state. I would be remiss if I did not also acknowledge that, among other things, the USFWS staff in Texas are very proactive in engaging TPWD and other stakeholders in species-listing work plans, multi-jurisdictional law enforcement initiatives, habitat recovery efforts, and species-specific status assessments. We support formalizing this type of approach so that these productive conservation partnerships can be better established and improved upon in all states.

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Other concepts we believe are essential to improving the ESA include your suggested measures to expand incentives for private landowner engagement in conservation, to augment landowner confidentiality protections, and to increase flexibility for administering the ESA. Enhancing the process for prioritization of those species being considered for listing could also greatly assist states in organizing and implementing strategies to more effectively influence listing determinations. Streamlining and clarifying processes to promote certain conservation agreements, such as Candidate Conservation Agreements with Assurances (CCAA), as well as allowing those CCAA participants to receive funding from other federal programs, will also better incentivize participation of private landowners and states in accelerating recovery efforts. Overall, we support measures that not only uphold the intent of the ESA to protect and recover rare species, but which can also be coupled with enhanced tools such as Safe Harbor Agreements and CCAs that foster quicker recovery of those species and their habitats.

We understand that the proposed legislation is characterized as a discussion draft, and that it is likely to evolve as more parties provide feedback. And, while we have not performed in-depth research on every proposed amendment you have suggested, we have identified some concepts that may merit further consideration. An example of such would include how to effect broader state consultation on reintroduction proposals involving non-essential experimental populations of endangered species that may range beyond the areas of reintroduction (e.g. whooping cranes or Mexican wolves).

Lastly, we believe that meaningful ESA reform can also be paired with heightened focus on addressing those species of greatest conservation need as identified in State Wildlife Action Plans. The Recovering America's Wildlife Act, introduced in the House by Representatives Fortenberry and Dingell (HR4647), offers a compelling roadmap for strategic investments needed to keep species out of the listing process and off of the Endangered Species list altogether. We hope you will devote attention and efforts to comparable legislation in the Senate that would greatly complement your ESA-related efforts.

Thank you again for your careful consideration of mechanisms to improve the ESA. TPWD applauds your attention and focus on this critically important piece of conservation legislation. Please know we stand ready and able to assist you and your staff with further collaboration as this legislative effort advances. Thank you.

Sincerely,



Carter Smith  
Executive Director

CS:dh