

January 14, 2021

President-Elect Joe Biden  
Presidential Transition Headquarters  
1401 Constitution Avenue NW  
Washington, DC 20230

Dear President-Elect Biden:

The undersigned groups represent millions of Americans who deeply value our nation's rich biodiversity. We write to encourage your administration to protect America's wildlife by rebuilding and strengthening the Endangered Species Act (ESA) - a powerful tool in the fight against extinction and the destruction of wild places. With nearly a million species at risk of extinction, shrinking wildlife populations, and extensive habitat loss worldwide, we are facing a global biodiversity crisis. This year we have seen and felt, more than ever, the impact of our broken relationship with nature. The COVID-19 pandemic is the result of a zoonotic spillover and spread to humans resulting from wildlife trade (both legal and illegal), deforestation, and habitat destruction. Americans sheltering from the pandemic have sought solace in the outdoors, but too many continue to lack access to green spaces and nature. We urge you and your administration to use the ESA and every other tool at your disposal to address the nature crisis we now face.

The ESA is an effective and popular law, nearly unanimously passed in 1973 during your first Congressional session as a U.S. Senator, and signed into law by President Richard Nixon. The law itself needs no revision, being overwhelmingly popular with the American public and demonstrating a strong track record of success. In the nearly 50 years since you cast your vote in the Senate to pass the ESA, thousands of species facing extinction have benefited from the Act's protection. Almost every species that has received the Act's protection is still with us today, including the bald eagle, the American alligator, and the humpback whale.

Despite the successful track record of the ESA, over the last four years, the Trump administration has labored to systematically dismantle the law on behalf of industry interests seeking to exploit our commonly held natural resources. Myriad regulations and policy changes have weakened ESA protections including recent actions taken in the waning days of this administration.<sup>1</sup> Species such as the iconic gray wolf and grizzly bear have been downlisted or delisted illegally, and others edge closer to extinction while their listings are delayed or denied.

With the rate of biodiversity loss increasing and our understanding of this crisis sharpening, restoring pre-Trump ESA implementation will not be enough. There must be increased federal investment in ESA programs, full and robust implementation of the law, and an overarching, whole-of-government approach embodied in a National Biodiversity Strategy. Below we detail key actions related to the ESA that we recommend that you and your administration take to "build back better" and tackle the biodiversity crisis at home and globally.

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<sup>1</sup> Including the following finalized regulations: [84 FR 44753](#), [84 FR 44976](#), and [84 FR 45020](#) (all finalized Aug. 27, 2019), [85 FR 81411](#) (finalized Dec. 16, 2020), and [85 FR 82376](#) (finalized Dec. 18, 2020).

- **Establish a National Biodiversity Strategy.** The Strategy must articulate the nation's commitment to a whole-of-government response to tackling species extinction and addressing the primary threats to biodiversity, ecosystem services and, ultimately, humanity. Section 7(a)(1) of the ESA articulates a proactive conservation mandate requiring all federal agencies to use their authorities to conserve endangered and threatened species. A National Biodiversity Strategy should include a call for all agencies to review how they are currently meeting this ESA requirement in light of that broader biodiversity mandate and make appropriate changes to better use their authorities to save species and their habitats and to ensure ecological integrity, and an end to federal funding of programs killing native wildlife.
- **Appoint strong directors to the Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS).** The new directors of the agencies responsible for implementing the ESA should be scientists and experts in wildlife conservation, with a track record of advocating for the preservation of imperiled species. The appointees should be dynamic leaders ready to take immediate action on these urgent wildlife priorities.
- **Restore effective ESA implementation.** Review ESA regulations, guidance documents, secretarial orders, and solicitors' opinions, including those promulgated and put in place by the Trump administration, and where appropriate quickly take steps to vacate/rescind any that are unlawful or inconsistent with the policy goals of the ESA and the National Biodiversity Strategy. Specifically, the revisions to the ESA regulations promulgated by the Trump administration must be repealed as they violate the purpose, text, and spirit of the Act and illegally reduce protections for threatened species, undercut critical habitat designations, and undermine science. Review listing decisions, decisions not to list, biological opinions, critical habitat designations, and rescission of the 4(d) Rule made by the Trump administration to ensure the integrity of those decisions.
- **Fully fund and robustly implement ESA programs.** Request substantial increases in funding for the FWS and NMFS programs involved in ESA implementation, including FWS Listing, Recovery, Planning and Consultation, Conservation and Restoration, and the Cooperative Endangered Species Conservation Fund, as well as NMFS Protected Species Research and Management. Such funding increases would expand capacity for listing species and designating critical habitat sufficient to address the backlog of petitions for listing and to prevent future backlogs, for implementing species' recovery plans and needed recovery actions, and for providing grants to states through section 6. Moreover, increasing recovery funding to \$2 billion or more would create short-term habitat restoration jobs and benefit ecosystems and local communities across the country. Revise and expand mitigation policies for ESA-listed species and other FWS trust species and ensure robust public engagement for future mitigation and conservation policies to enable needed course corrections.
- **Fully consider climate change in ESA implementation.** Comprehensively review recovery plans, agency guidance, Habitat Conservation Plans, critical habitat designations, and other relevant materials and processes to ensure the effects of climate change are properly identified and addressed. Establish clear, consistent, science-based guidance for consideration of climate change effects in decisions regarding listing of species under the ESA and in consultations on federal agency actions under Section 7 of the ESA.
- **Use the ESA to address the threat of pesticides to listed species.** Require the FWS and NMFS to finalize and release the numerous outstanding pesticide consultation biological opinions that have been languishing for years, and ensure that the Environmental Protection Agency implements applicable reasonable and prudent alternatives set forth in those opinions.

These actions will enable you and your administration to address the biodiversity crisis by rebuilding and strengthening our most important tool against species loss.

In addition, we urge you and your administration to restore U.S. global leadership on wildlife conservation. A meaningful step is ratifying international agreements that promote global biodiversity protection, including the Convention on Biological Diversity, the United Nations Convention for the Law of the Sea, and the Convention on Migratory Species. We also urge your incoming administration to include strong environment chapters in all other bilateral and multilateral free trade agreements, with fully enforceable obligations for combating wildlife trafficking, preserving habitat, reducing marine litter, mitigating climate change, and promoting conservation. Finally, we encourage your administration to prioritize biodiversity conservation as a goal of the international development programs that the United States funds.

Sincerely,

Animal Legal Defense Fund

Animal Welfare Institute

Bat Conservation International

Born Free USA

Bucks County Audubon Society

Center for Biological Diversity

Christian Council of Delmarva

Defenders of Wildlife

Earthjustice

Endangered Habitats League

Endangered small animal Conservation fund

Endangered Species Coalition

Environment America

Environmental Action Committee of West Marin

Great Old Broads for Wilderness

Heartwood

Howling For Wolves

Humane Society Legislative Fund

Indiana Forest Alliance

International Fund for Animal Welfare

International Marine Mammal Project of Earth Island Institute

Mass Audubon

National Parks Conservation Association

Natural Resources Defense Council

NH Audubon

Northern San Juan Chapter, Great Old Broads for Wilderness

Northwest Center for Alternatives to Pesticides

NY4WHALES

Oceana

Oceanic Preservation Society

Oceanic Preservation Society

Outdoor Advocacy Project

OVEC-Ohio Valley Environmental Coalition

Panthera

Patagonia Area Resource Alliance

Quiet Use Coalition

San Juan Citizens Alliance

San Luis Valley Ecosystem Council

Save Animals Facing Extinction

Save the Manatee Club

Sheep Mountain Alliance

Sierra Club

Southern Environmental Law Center

The Humane Society of the United States

Turtle Island Restoration Network

Union of Concerned Scientists

Western Watersheds Project

WildEarth Guardians

Wildlife Conservation Society

Wolf Conservation Center