

September 23, 2020

The Honorable John Barrasso
Chairman
Environment and Public Works Committee
United States Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Environment and Public Works Committee
United States Senate
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The Senate Environment and Public Works Committee meets today for a hearing on Chairman Barrasso's legislation entitled the "Endangered Species Act Amendments of 2020" (S. 4589). This bill would fundamentally undermine the Endangered Species Act (ESA) which has proven highly effective at preventing the extinction of species under its protection. The ESA is also broadly popular with the American people – poll after poll has shown broad support, the most recent peer-reviewed research showing support from roughly four out of five Americans.¹ At a time when the planet is facing an unprecedented extinction crisis caused by human driven factors, we should be mobilizing to reverse this crisis rather than weakening our most important tool to address it. We write on behalf of our millions of members and supporters to express strong opposition to this legislation.

Our nation and our planet face an extinction crisis of epic proportion; scientists predict that half of all species will be facing extinction by the end of the century. Study after study in the last several years have warned about this crisis. Last year's global assessment on the status of biodiversity and ecosystem services found that 1 in 8 species on Earth – about 1 million species – are facing extinction.² And just last week, the United Nations Convention on Biological Diversity released an updated report warning that humanity is at a crossroads and the extinction crisis is intensifying.³ In releasing this new report, Inger Andersen, U.N. under-secretary-general and executive director of the U.N. Environment Programme said that protecting nature is still entirely within humanity's reach but we need to start now: "We can no longer afford to cast nature to the side. Now is the time for a massive step up, conserving, restoring and using biodiversity fairly and sustainably. If we do not, biodiversity will continue to buckle under the weight of land- and sea-use change, overexploitation, climate change, pollution and invasive alien species. This will further damage human health, economies and societies, with particularly dire impacts on indigenous communities."⁴

¹ Jeremy T. Bruskotter et al., *Support for the U.S. Endangered Species Act Over Time and Space: Controversial Species Do Not Weaken Public Support for Protective Legislation*, Conservation Letters, e12595 (2018), <https://doi.org/10.1111/conl.12595>.

² <https://ipbes.net/news/Media-Release-Global-Assessment>

³ <https://www.cbd.int/gbo5?ftag=MSF0951a18>

⁴ <https://www.unenvironment.org/news-and-stories/speech/protecting-nature-entirely-within-humanitys-reach-work-must-start-now?ftag=MSF0951a18>

The world has a moral imperative to collaborate on strong actions to mitigate and adapt to the biodiversity crisis. The preservation and support for our bedrock conservation laws – including the ESA – is a vital component of the solution. The U.S. should mobilize relevant agencies across the Federal government to develop a strategy to address this crisis including fully funding the ESA – programs to recover species listed under the ESA have been consistently and significantly underfunded, with recent estimates indicating species receive less than one-quarter of funding scientists indicate is required.⁵

Unfortunately, Senator Barrasso’s bill goes in the opposite direction, dramatically weakening this effective and popular wildlife conservation law:

- The bill is all about politics, not science, and will not improve the conservation of endangered species.
- This bill seeks to impose overweening and inappropriate state control over the most important processes to list, protect and recover imperiled species under the ESA and adds additional bureaucratic barriers to listing but removes barriers to delisting.
- It shields critical decisions to delist species from judicial review, precluding the ability of the public to hold federal decision makers accountable to the law.
- It replaces the current listing process with a far lengthier process. Species already wait years for protection.
- It replaces federal management of recovery planning and implementation with layers of recovery goal development, recovery plan development, and implementation plan development, each dominated by states.
- It weighs down the already over-burdened federal agencies endeavoring to protect and recover imperiled species with arbitrary and infeasible deadlines and requirements, making their jobs — and the prospects for conserving endangered species — even more daunting.

In particular, this damaging bill seeks to impose state control over the most important processes to list, protect, and recover imperiled species under the ESA — even though states already have broad opportunities to engage in the ESA process. Moreover, states lack the legal authority, resources and political resolve to implement the ESA. A 2017 study⁶ by the U.C. Irvine School of Law found that:

- Only 4% of states have authority to promote the recovery of imperiled species;
- Only 5% of spending on imperiled species is by the states; and
- Only 10% of states have significant habitat safeguards.

In recent years, there has been a parade of attacks on the ESA both by opponents in Congress and the current administration. Given the tremendous success of the ESA and the overwhelming need to address the unprecedented extinction crisis, there is simply no reason for legislation that would do nothing other than satisfy political interests in undermining this

⁵ See Gerber LR. 2016. Conservation triage or injurious neglect in endangered species recovery. Proc. Natl. Acad. Sci. U. S. A. 113:3563–3566 and an updated estimate of recovery cost requirements at https://defenders-cci.org/files/ESA_recovery_costs_2019.pdf

⁶<http://www.law.uci.edu/centers/cleanr/news-pdfs/cleanr-esa-report-final.pdf>

crucial wildlife conservation law. Again, we strongly oppose this legislation. Thank you for your attention.

Sincerely,

Alaska Wilderness League Action

Animal Welfare Institute

Appalachian Trail Conservancy

Bat Conservation International

Born Free USA

Center for Biological Diversity

Central Colorado Wilderness Coalition

Christian Council of Delmarva

Clean Water Action

Coalition on the Environment and Jewish Life

Coalition to Protect America's National Parks

Conservation Council For Hawaii

Conservation Law Foundation

Conservatives for Responsible Stewardship

Defenders of Wildlife

Earthjustice

Endangered Habitats League

Endangered Species Coalition

Environment America

Environmental Protection Information Center

Friends of Blackwater, Inc.

Friends of the Earth

Friends of the Sonoran Desert

Gaviota Coast Conservancy

Grand Junction Area Broadband - Great Old Broads for Wilderness

Great Old Broads for Wilderness

Humane Society Legislative Fund

Humane Society of the United States

International Marine Mammal Project of Earth Island Institute

John Muir Project

Juniata Valley Audubon Society

Klamath Forest Alliance

League of Conservation Voters

Los Padres ForestWatch

Maine Audubon

Mass Audubon

National Parks Conservation Association

Natural Resources Defense Council

NH Audubon

Northwest Center for Alternatives to Pesticides

NY4WHALES

Ocean Conservancy

Oceana

Oceanic Preservation Society

Oil Change International

Resource Renewal Institute

RESTORE: The North Woods

Rocky Mountain Recreation Initiative

Rocky Mountain Wild

San Juan Citizens Alliance

San Luis Valley Ecosystem Council

Save Our Allegheny Ridges

Save the Manatee Club

Sierra Club

Southern Environmental Law Center

Turtle Island Restoration Network

Union of Concerned Scientists

Western Environmental Law Center

Western Watersheds Project

WildEarth Guardians

Wilderness Workshop

Wildlands Network

Wildlife Conservation Society

Wolf Conservation Center