

**Alaska Wilderness League * American Bird Conservancy * American Rivers
Animal Welfare Institute * Blue Heron Productions * Born Free USA * Braided River
Center for Biological Diversity * Clean Water Action * Defenders of Wildlife
Delaware Ecumenical Council on Children and Families * Earthjustice * Earthworks
Endangered Habitats League * Endangered Species Coalition * Environment America
Environmental Protection Information Center * Friends of Blackwater, Inc.
Friends of the Earth * Great Old Broads for Wilderness * Hip Hop Caucus
Howling For Wolves * Humane Society Legislative Fund
International Marine Mammal Project, Earth Island Institute * Klamath Forest Alliance
League of Conservation Voters * National Audubon Society
National Parks Conservation Association * Natural Resources Defense Council
NY4WHALES * Oceana * Oregon Wild * Public Interest Coalition * Quality Parks
RE Sources for Sustainable Communities * Save Animals Facing Extinction
Save Wolves Now Network * Sierra Club * Students for the Salish Sea * The Bay Institute
The Humane Society of the United States * the Jane Goodall Institute
Maine Wolf Coalition, Inc. * The Rewilding Institute * Trap Free Montana
Trap Free Montana Public Lands * Turtle Island Restoration Network
WE ACT for Environmental Justice * Wildlands Network * WildEarth Guardians
Wolf Conservation Center * Wolf Haven International**

September 25, 2018

RE: Please Oppose H.R. 3608, H.R. 6344, H.R. 6345, H.R. 6346, H.R. 6354, H.R. 6355, H.R. 6356, H.R. 6360, and H.R. 6364 (the “Expanded Wildlife Extinction Package”)

Dear Representative:

The House Natural Resources Committee meets this week for a legislative hearing on nine bills. This package of legislation would dramatically weaken the Endangered Species Act and should be labeled the “Expanded Wildlife Extinction Package.” These bills would undermine the role of science in the listing process, transfer undue authority to state officials, make it more difficult for species to gain federal protections (and easier to lose them), and undercut citizens’ vital role in helping to enforce the law. **On behalf of our millions of members and activists nationwide, we urge you to oppose the “Expanded Wildlife Extinction Package.”**

Science shows that we are currently facing a devastating sixth mass extinction. According to the latest scientific studies, three-quarters of all species could disappear in the coming centuries.¹ The Endangered Species Act is America’s most effective law for protecting wildlife in danger of extinction. It serves as an essential safety net for imperiled plants, fish, and wildlife. Since its

¹ “Accelerated modern human–induced species losses: Entering the sixth mass extinction,” *ScienceMag*. 2015. <http://advances.sciencemag.org/content/1/5/e1400253>.

enactment, ninety-nine percent of listed species have avoided extinction and many more have been set on a path to recovery, including the iconic American bald eagle, the grizzly bear and the Florida manatee. The Endangered Species Act has seen such remarkable success—even in the face of dramatic underfunding—because it relies on best-available scientific data to make listing decisions and empowers citizens to participate in and ensure adequate implementation of the law. The bills before Committee attack these fundamental strengths and the very foundation on which the Endangered Species Act was written, representing a clear and present danger to wildlife preservation nationwide.

The Endangered Species Act is our nation’s declaration of the fundamental value of protecting species from extinction. Recent peer-reviewed research from the Ohio State University shows that roughly four out of five Americans support the law.² Members of Congress should recognize this broad public support and protect the Endangered Species Act so that it can continue working to save our nation’s remaining plants, fish and wildlife from extinction. We therefore urge you to oppose these harmful bills.

H.R. 3608 (“The Endangered Species Act Transparency and Reasonableness Act”) would undermine the use of sound science in Endangered Species Act listing decisions by declaring that state and local data is by definition the best available science, regardless of whether it is scientifically inferior. Under current law, the federal government already works extensively with the states, considers state and local data when making listing decisions, and notifies affected states of proposed listing determinations. This bill also threatens to undercut citizen enforcement of the Endangered Species Act. Indeed, under H.R. 3608, citizens who successfully challenge illegal government actions under the Endangered Species Act would be subject to fee recovery restrictions that could make it difficult for them to obtain counsel. In doing so, this bill would make it easier to violate the law with impunity.

H.R. 6344 (“Land Ownership Collaboration Accelerates Life Act”) would create a loophole in the Endangered Species Act’s prohibition on take³ of endangered species by requiring the Secretary to determine, upon the request of an individual, whether a given activity complies with the law. If the Secretary does not provide a written determination of compliance within 180 days of receiving the request, the proposed activity will be automatically deemed *not* to constitute unlawful take of a species, effective for five years. If the Secretary determines that the proposed activity is in compliance with the law, then *any* use or action taken by the property owner in “reasonable reliance” would not be considered a violation of the law, and would remain effective for 10 years. This loophole could result in the harm and/or death of endangered and threatened species, as well as in the destruction of critical habitat. Most disturbing, if the Secretary finds that the proposed use would not comply with the Endangered Species Act’s take prohibition (or withdraws a no take determination), H.R.6344 would entitle the landowner to financial compensation. Thus, the government would have to expend taxpayer dollars simply to ensure compliance with the law. This potential cost would cripple enforcement of the Act.

² Jeremy Bruskotter, John Vucetich, Ramiro Berardo, “[Support for the Endangered Species Act remains high as Trump administration and Congress try to gut it.](#)” The Conversation, July 20, 2018.

³ The term “take” is defined in the Endangered Species Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

H.R. 6345 (“Ensuring Meaningful Petition Outreach While Enhancing States Rights Act”) would severely undermine the Endangered Species Act’s science-based listing process by giving state and local governments de facto veto authority over decisions to list species as threatened or endangered. Under H.R. 6345, if the Secretary finds that a species’ listing may be warranted, he or she must solicit information and advice from each state and county in which the species is located. If the state or county advises that the listing is not warranted, the Secretary may not proceed unless he or she demonstrates that the information submitted in support of an unwarranted finding is incorrect.

H.R. 6346 (“Weigh Habitats Offsetting Locational Effects Act”) would increase the likelihood that a federal agency action would jeopardize the continued existence of a threatened or endangered species or result in the destruction or adverse modification of critical habitat. The Section 7 consultation process is designed to prevent this outcome in part by reviewing a federal agency action’s negative effects and considering any offsetting measures, such as avoidance, minimization, or mitigation. Yet H.R. 6346 would allow the Secretary to consider non-binding offsetting measures. In doing so, this bill increases the risk that a federal agency action will have detrimental impact on a species or its habitat.

H.R. 6354 (“Stop Taking On Reserves Antithetical to Germane Encapsulation Act”) would restrict designations of critical habitat for threatened or endangered species. Specifically, the bill would prohibit the Secretary from designating as critical habitat any area in water storage, diversion, or delivery facilities where habitat is periodically created and destroyed as a result of changes in water levels caused by the operation of such facility. This could prevent the designation of a sufficient amount of a critical habitat necessary for a species to survive.

H.R. 6355 (“Providing ESA Timing Improvements That Increase Opportunities for Nonlisting Act”) would undercut citizens’ ability to participate in and ensure adequate implementation of the law by weakening the citizen petition process and limiting judicial review. H.R. 6355 would automatically trigger denials of petitions to list or uplist species in the event of a “petition backlog” as declared by the Secretary under the procedures set forth in the bill. Once the backlog has been declared, the Secretary would be required to prioritize petitions to delist or downlist species over petitions to list or uplist species. In effect, the bill would create additional barriers to listing species and automatically deny most listing petitions in the event of a declared backlog. What’s more, these automatic negative petition findings would be exempt from judicial review.

H.R. 6356 (“Less Imprecision in Species Treatment Act”) would make it easier to delist species that may not be fully recovered, while simultaneously deterring the public from petitioning to list imperiled species deserving of protection. First, the bill would require the Secretary to delist a species without regard to the Endangered Species Act’s listing requirements if he or she receives “substantial scientific or commercial information” demonstrating that a species is recovered or that recovery goals set for a species have been met. Second, if the Secretary determines that a listing was in error, the bill would shield a subsequent delisting decision from judicial review. In doing so, this bill eliminates a vital check on delisting decisions that may not have been based on the best available science. Finally, the bill would prohibit a

citizen from submitting a listing petition for 10 years if they “knowingly” included inaccurate, fraudulent, or misrepresentative information in a listing petition, but does not adequately define how such an inquiry would take place.

H.R. 6360 (“Permit Reassurances Enabling Direct Improvements for Conservation, Tenants, and Species Act”) would weaken existing regulations governing cooperative conservation efforts between the Fish and Wildlife Service and landowners. Agency regulations currently allow landowners to voluntarily enter into Candidate Conservation Agreements with Assurances, which address conservation measures for species that are anticipated to be listed, and Safe Harbor Agreements, which address conservation measures for listed species. These agreements benefit landowners because they grant “take permits” and provide assurances that if circumstances involving a species change, they would not be required to undertake additional conservation activities. H.R. 6360 would weaken requirements for landowners entering into such agreements and make it more difficult to terminate agreements if a landowner fails to meet his or her responsibilities.

H.R. 6364 (“Localizing Authority of Management Plans Act”) would undermine the ability of federal agencies to conserve threatened or endangered species by delegating significant management authority to state governments and individuals and removing a prohibition against state laws that are less restrictive than the Endangered Species Act. The Endangered Species Act currently allows states and the federal government to enter into cooperative agreements, wherein states propose programs to conserve listed species and the Secretary assists with management of these programs. However, H.R. 6364 would delegate management to the states and non-federal parties with little to no federal oversight. Furthermore, the bill would allow states to enact laws regarding the take of listed species that are less restrictive than federal laws, effectively allowing less protective laws to replace federal Endangered Species Act protections.

Please protect the Endangered Species Act, our nation’s most effective and important law for species conservation, by voting “no” on the “Expanded Wildlife Extinction Package,” including **H.R. 3608, H.R. 6344, H.R. 6345, H.R. 6346, H.R. 6354, H.R. 6355, H.R. 6356, H.R. 6360,** and **H.R. 6364.** **These bills constitute an extreme assault on our nation’s wildlife, public participation, and one of our most popular and successful laws.**

Thank you for your consideration.

Sincerely,

Alaska Wilderness League
American Bird Conservancy
American Rivers
Animal Welfare Institute
Blue Heron Productions
Born Free USA
Braided River
Center for Biological Diversity

Clean Water Action
Defenders of Wildlife
Delaware Ecumenical Council on Children and Families
Earthjustice
Earthworks
Endangered Habitats League
Endangered Species Coalition
Environment America
Environmental Protection Information Center
Friends of Blackwater, Inc.
Friends of the Earth
Great Old Broads for Wilderness
Hip Hop Caucus
Howling For Wolves
Humane Society Legislative Fund
International Marine Mammal Project, Earth Island Institute
Klamath Forest Alliance
League of Conservation Voters
National Audubon Society
National Parks Conservation Association
Natural Resources Defense Council
NY4WHALES
Oceana
Oregon Wild
Public Interest Coalition
Quality Parks
RE Sources for Sustainable Communities
Save Animals Facing Extinction
Save Wolves Now Network
Sierra Club
Students for the Salish Sea
The Bay Institute
The Humane Society of the United States
the Jane Goodall Institute
The Maine Wolf Coalition, Inc.
The Rewilding Institute
Trap Free Montana
Trap Free Montana Public Lands
Turtle Island Restoration Network
WE ACT for Environmental Justice

Wildlands Network
Wolf Conservation Center
Wolf Haven International