

January 8, 2024

RE: PLEASE OPPOSE ANTI-ESA RIDERS IN APPROPRIATIONS BILLS

The Honorable Charles Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington D.C. 20510

The Honorable Hakeem Jeffries
Democratic Leader
U.S. House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

Dear Leader Schumer and Leader Jeffries:

On behalf of our organizations and our millions of members and supporters, we urge you to ensure that any final FY 2024 appropriations bill is free of riders that undermine the Endangered Species Act (ESA) and protections for imperiled species. The House FY 2024 Interior appropriations bill, H.R. 4821 includes 15 harmful ESA riders, many of which block or deny critically needed protections for species on the verge of extinction – some of these species already have been awaiting protection for decades. In addition, the Senate Interior appropriations bill, S. 2605, still includes the long-standing rider denying ESA protections to the imperiled sage-grouse.

The ESA, which celebrated its 50th anniversary of success in 2023, is America’s most effective law for protecting wildlife in danger of extinction. It is effective largely because it is a science-based law. Nearly all species listed under the ESA have been saved from disappearing forever and hundreds are on the path to recovery. Species saved from extinction by the ESA include America’s symbol – the bald eagle – as well as the peregrine falcon, the brown pelican, the American alligator, and the whooping crane. Scientists have warned that one million species are facing extinction in the coming years. At a time when the planet is experiencing a biodiversity crisis of epic proportions, politicians should not be weakening the nation’s best tool for helping to stave off the tragedy of extinction.

Please ensure the following provisions are not included in any final appropriations bill:

FY 2024 House Interior Appropriations Bill – H.R. 4821

Blocks Protections for Sage-Grouse: *Sec. 116* would continue and expand the rider which has been included in Interior appropriations bills since 2014 prohibiting the U.S. Fish and Wildlife Service (FWS) from listing the greater sage-grouse and the Columbia Basin distinct population segment of the species for protection under the ESA. *Sec. 116* also would expand the perennial rider to include the geographically isolated, genetically distinct, and extremely vulnerable bi-state population of greater sage-grouse found only on the California-Nevada border.

Exempts Consultation for Land Management Plans: *Sec. 446* would finalize a proposed Trump-era ESA rule which provided that reinitiation of ESA Section 7 consultation would not be required for previously approved Bureau of Land Management and Forest Service land management plans when new information reveals that effects of a plan may affect listed species or critical habitat in a manner or to an extent not previously authorized.

Blocks Protections for the Lesser Prairie Chicken: *Sec. 448* would block funding for the November 2022 rule protecting the lesser prairie chicken under the ESA. The lesser prairie chicken has lost between 83-90% of its habitat to various forms of development and its population has declined by as much as 99% in some ecoregions and faces imminent extinction in the southern portion of its range.

Blocks Restoration of North Cascades Ecosystem Grizzly Bear: *Sec. 450* would block funding to prepare an environmental impact statement for the North Cascades Ecosystem (NCE) Grizzly Bear Restoration Plan as well as funding to implement the plan. Reintroduction of the grizzly bear to the NCE, a portion of its historic range, is needed to support overall grizzly bear recovery and because the species has been functionally extirpated from the ecosystem.

Delists Gray Wolf: *Sec. 452* would direct the Secretary of the Interior to reinstate the flawed Trump administration rule delisting the gray wolf in 44 states which was hastily issued by the FWS at the end of the last administration. Gray wolf populations in the United States were decimated by decades of predator control programs, as well as loss of habitat and prey. Since receiving protection under the ESA in 1974, the gray wolf has begun a comeback, but remains far from recovered.

Blocks Increased Protections for Northern Long-Eared Bat: *Sec. 457* would block funding to implement the November 2022 final rule uplisting the northern long-eared bat from threatened to endangered resulting in the species receiving the weaker protections set under a threatened classification in 2015, which exempted most habitat-destroying activities from regulation. While the fungal disease white-nose syndrome is the most significant driver of northern long-eared bat loss, the species also faces threats from habitat loss, wind energy mortality, and climate change.

Prevents Adequate Pesticide Regulation: *Sec. 461* would block funding under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and effectively prohibit the Environmental Protection Agency (EPA) from regulating pesticides based on the result of ecological risk assessments. This provision also would likely prevent EPA from complying with its obligation under the ESA to consult with FWS and the National Marine Fisheries Service (NMFS) to ensure its actions under FIFRA don't jeopardize the survival and recovery of imperiled species.

Blocks Protections for Dunes Sagebrush Lizard: *Sec. 486* would block funding to implement any final rule listing the dunes sagebrush lizard under the ESA pursuant to the July 2023 proposed rule to list the species as endangered. The lizard's shinnery oak habitat, already heavily impacted by oil and gas development, is effectively irreplaceable. The species has been a candidate for listing since 1982, but FWS did not propose its listing until 2010, before withdrawing that proposal in 2012 based on the hope that voluntary conservation plans would be sufficient for protection. More than 10 years later, in the wake of the failure of those plans to stop the lizard's slide towards extinction, FWS has proposed the species for an endangered listing.

Blocks Protections from Rodenticides: *Sec. 487* would prohibit the EPA from using funds for decisions proposed in EPA’s November 2022 “Proposed Interim Decisions for the Rodenticides” which, if finalized, would place additional usage restrictions on 11 rodenticides. Some of these usage restrictions were developed to avoid jeopardizing three listed species under upcoming ESA Section 7 consultations – Attwater’s prairie chicken, Stephens’ kangaroo rat, and the California condor. The additional mitigation measures proposed would not prohibit use of these pesticides but would simply require users take commonsense measures to avoid harming non-target species like the listed species above.

Delists Greater Yellowstone Ecosystem Grizzly Bear: *Sec. 491* would direct the Secretary of the Interior to reinstate and bar judicial review of the June 2017 final rule delisting the Greater Yellowstone population of grizzly bears which was held unlawful in Federal court. The grizzly bear’s decline from habitat loss and suppression through hunting and heavy-handed predator control programs was one of the factors prompting enactment of the ESA, and it was listed as threatened soon after enactment. Grizzly bear populations in the Greater Yellowstone and Northern Continental Divide Ecosystems are stable and growing, but concern remains about the isolation of those populations, the threat of increased human-induced mortality through hunting or predator control if they were delisted, and the effects of delisting particular populations on grizzly bears in the rest of the lower-48 states.

Blocks Protections for the Salina Mucket and Mexican Fawnsfoot Mussels: *Sec. 501* would block funding for the July 2023 proposed rule to list the Salina mucket and Mexican fawnsfoot mussels as endangered under the ESA and designate critical habitat for both species. These two mussel species are native to the Rio Grande drainage in Texas and Mexico and are thought to have been extirpated from most of their historical range with only a single population of each found in Texas and both species completely eliminated in Mexico. Preventing this rule could doom these Rio Grande mussels to extinction and allow further degradation of the species’ riverine habitat which will impair its ecological functioning and health.

Blocks Revision of Harmful ESA Rules: *Sec. 506* would undermine the ESA – and subvert the agency rulemaking process – by prohibiting FWS from completing the rulemaking process on three proposed regulations to update how the ESA is implemented. If enacted, the amendment would prevent FWS from making final decisions on the proposed regulations, thus keeping in place harmful Trump-era regulations, and prohibiting the agency from implementing important updates to bring the rules back into conformity with the ESA and ensure robust decision-making firmly grounded in the law and the science.

Blocks Increased Protections for North Atlantic Right Whale: *Sec. 512* would undermine the ESA and the Marine Mammal Protection Act – and subvert the agency rulemaking process – by prohibiting any funds appropriated in the Interior bill from being used to finalize or implement the August 2022 proposed rule to expand the 2008 North Atlantic right whale vessel speed rule to further reduce the likelihood of mortalities and injuries to the whales from vessel collisions. Vessel strikes are the second leading cause of mortality and injury to the endangered North Atlantic right whale which continues to be at significant risk of functional extinction. The impact of this rider is likely mitigated by the fact that the agencies primarily responsible for the rule are not funded under the Interior bill.

Weakens Protections for Rice’s Whale: *Sec. 517* would weaken protections for the critically endangered Rice’s whale in the Gulf of Mexico by prohibiting funding for implementation of a July 2023 settlement agreement that would reduce risks to the species from oil and gas development and vessel strikes which are minimum protections needed to save the species from extinction in the near term. The risk of being struck and killed by a vessel is a primary threat to the survival of the 51 remaining Rice’s whales and oil and gas vessel transits represent 40 percent of the vessel strike risk in the Gulf. Federal courts recently enjoined the federal government’s ability to include protective restrictions as agreed to in the settlement agreement in Lease Sale 261, which will be held on December 20, 2023.

Blocks Protections for Texas Kangaroo Rat: *Sec. 521* would prevent funding for the August 2023 rule to list the Texas kangaroo rat as endangered under the ESA and designate critical habitat for the species. The primary threat to the Texas kangaroo rat has been habitat loss and degradation, driven largely by historical land use change. FWS first identified the Texas kangaroo rat as a species that may warrant listing as endangered or threatened in 1982, more than 40 years ago.

FY 2024 Senate Interior/EPA Appropriations Bill – S. 2605

Sage-Grouse: Similar to Sec.116 of H.R. 4821, *Sec. 119* of S. 2605 continues the perennial rider which has been included in Interior appropriations bills since 2014 prohibiting FWS from considering greater sage-grouse and the Columbia Basin distinct population segment of the species for protection under the ESA. However, the Senate rider differs from the House version in that it does not expand the language to include the bi-state population of greater sage-grouse found only on the California-Nevada border.

Again, we urge you to ensure these harmful riders are not included in any final appropriations bill.

Sincerely,

American Bird Conservancy
Animal Legal Defense Fund
Animal Welfare Institute
Animal Wellness Action
Animal Wellness Foundation
Born Free USA
Bridges Into the Future
Buffalo Field Campaign
CalWild
Cascadia Wildlands
Center for a Humane Economy
Center for Biological Diversity
Cetacean Society International
Clean Water Action
Coast Range Association
Conservation Law Foundation
Conservation Northwest
Conservatives for Responsible Stewardship
Defenders of Wildlife

Earthjustice
Endangered Habitats League
Endangered Species Coalition
Environment America
Environmental Center of San Diego
Environmental Investigation Agency
Environmental Protection Information Center -EPIC
Foundation for Sustainable Community dba Farmer Frog
FOUR PAWS USA
Friends of Bell Meadow
Friends of Merrymeeting Bay
Friends of the Earth
Friends of the Sonoran Desert
Friends of the Wisconsin Wolf and Wildlife
Gaviota Coast Conservancy
Great Lakes Wildlife Alliance
Great Old Broads for Wilderness
Green Art Labs
GreenLatinos
Greenpeace USA
Healthy Gulf
Heartwood
Howling For Wolves
Humane Action Pennsylvania
Humane Action Pittsburgh
Idaho Conservation League
Inland Ocean Coalition
Interfaith Power & Light
International Fund for Animal Welfare (IFAW)
International Marine Mammal Project of Earth Island Institute
Kentucky Heartwood
Kettle Range Conservation Group
Kids for Saving Earth
Klamath Forest Alliance
Klamath Siskiyou Wildlands Center
Lassen Forest Preservation Group
League of Conservation Voters
Los Angeles Audubon Society
Los Padres ForestWatch
Marine Mammal Alliance Nantucket (MMAN)
Mass Audubon
National Wolfwatcher Coalition
Natural Resources Defense Council
North Cascades Conservation Council
North Central Washington Audubon Society
Northeastern Minnesotans for Wilderness
Northern California Council, Fly Fishers International
NY4WHALES

NYC Plover Project
Ocean Conservation Research
Oceana
Orca Network
Oregon Natural Desert Association
Oregon Wild
Partnership for Policy Integrity
Portland Audubon
Project Coyote
RE Sources
Resource Renewal Institute
Rocky Mountain Wild
Sanctuary Education Advisory Specialists SEAS
Save Animals Facing Extinction
Save Our Sky Blue Waters
Save Our Wild Salmon Coalition
Save the Manatee Club
Seven Circles Foundation
Sierra Club
Sierra Foothills Audubon Society
Sierra Forest Legacy
Silvix Resources
Southern Utah Wilderness Alliance
SPCA International
The Conservation Angler
The Cougar Fund
The Fire Restoration Group
The Urban Wildlands Group
TURTLE ISLAND RESTORATION NETWORK
Voices of Wildlife in NH
Western Environmental Law Center
Western Nebraska Resources Council
Western Watersheds Project
Western Wildlife Outreach
Wild Orca
WildEarth Guardians
Wilderness Workshop
Wolf Conservation Center
World Wildlife Fund
Wyoming Untrapped

CC: The Honorable Patty Murray
The Honorable Rosa DeLauro