

United States Senate

August 1, 2023

The Honorable Martha Williams
Director
U.S. Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, VA 22041

Ms. Janet Coit
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, MD 20910

Dear Director Williams and Assistant Administrator Coit:

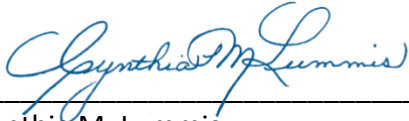
We write to express our strong concerns with three proposals issued the U.S. Fish and Wildlife Service (FWS), two of which were jointly issued with the National Marine Fisheries Service (NMFS), that would roll back crucial reforms to the Endangered Species Act (ESA) and revert to burdensome and outdated standards. Given the outsized impact these policy changes will have on communities across the nation, it is imperative that FWS and NMFS extend the comment period to allow all affected stakeholders the opportunity to voice their concerns.

In 2019, the Trump Administration rightfully recognized the qualitative differences between threatened and endangered species. In doing so, FWS rescinded the prior “blanket rule” that automatically granted endangered-level protections to species only listed as threatened. The existing rule provides for greater flexibility by ensuring FWS crafts guidelines for each threatened wildlife species on a case-by-case basis, ensuring only necessary prohibitions and restrictions are in place. Restoring the blanket rule will lead to more red tape and burdensome regulations.

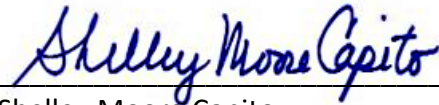
Similarly, the 2019 reforms to Section 4 regarding listing and delisting of species and designation of critical habitat were a welcome change. These reforms removed constraints that previously prohibited agencies from researching and sharing the economic impacts of a listing determination under the ESA. The current rule also provides circumstances where the FWS and NMFS may find that designating critical habitat for a species would not be prudent. The proposal in question removes all these flexibilities along with a mandate that the agencies again must designate unoccupied areas as critical habitat.

Finally, the 2019 update to Section 7 clarified the interagency consultation process and codified alternative consultation mechanisms to provide greater efficiency for how ESA consultation are conducted. The rule also established standards ensuring that effects analysis for proposed actions is limited only to “activities that are reasonably certain to occur” and must be backed by “clear and substantial information.” Eliminating these important clarifications will only result in further one-size-fits-all responses to a threatened or endangered species benefitting no involved party, not the least of which is the species in question.

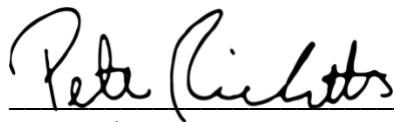
We urge your agencies to fully consider the impact these proposed rules will have on communities across the nation. Instead of returning the ESA to an overly burdensome and ineffective statute, the Biden Administration must prioritize efforts that empower private landowners and other stakeholders to achieve the goal of removing species from the ESA list. In the meantime, we urge you to extend the comment period on these proposed rules until meaningful input can be provided from all affected parties.



Cynthia M. Lummis
United States Senator



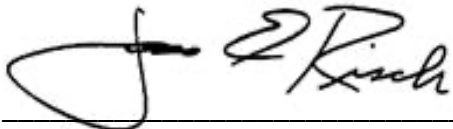
Shelley Moore Capito
United States Senator



Pete Ricketts
United States Senator



Steve Daines
United States Senator



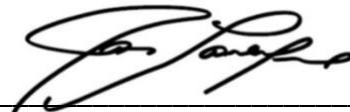
James E. Risch
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