

Anti-Endangered Species Act Riders in the Fiscal Year 2016 Interior Appropriations Bills

ANTI-ESA PROVISIONS IN HOUSE INTERIOR APPROPRIATIONS BILL

Anti-ESA provisions that were already in the underlying bill:

- **Section 117: Sage-Grouse**

This provision would prevent the U.S. Fish and Wildlife Service (FWS) from even considering greater sage-grouse and the Columbia Basin sage-grouse for possible listing under the Endangered Species Act (ESA) for at least another year. Both populations have waited more than a decade for a listing decision. Additional delays would make conservation and recovery of these grouse more difficult, more expensive and more disruptive in the future. Additionally, the listing decision delay could undermine planning efforts presently underway to balance land uses with sage-grouse conservation on tens of millions of acres in the West. These planning processes could unravel if sage-grouse listing decisions are delayed.
- **Section 121: Gray Wolf**

This provision would legislatively order the Secretary of the Interior to reissue rules delisting gray wolves in Wyoming and the Great Lakes states and shield those rules from any additional judicial review. The rules were declared unlawful under the ESA and invalidated by two separate federal judges. This provision would short-stop wolf recovery in the lower-48 states and invite further Congressional micro-management of the ESA.
- **Section 122: Northern Long-Eared Bat**

This ambiguously-drafted provision appears to expand and statutorily codify an already problematic FWS special rule for the northern long-eared bat. The agency's special "4(d) rule" eliminates vital legal protections that might otherwise help the species survive and establishes "conservation measures" that are too limited geographically and temporally. This amendment would prevent any changes to the proposed 4(d) rule and further weaken it by exempting incidental take caused by any industry activity.
- **Section 120: Ivory**

This provision would block tougher restrictions on the ivory trade, benefitting elephant poachers and ivory smugglers at the cost of elephants' lives.

Anti-ESA amendments that passed by voice vote:

- **Yoder (R-KS-3) ESA/Lesser Prairie-Chicken amendment**

This amendment would prevent FWS from protecting the threatened lesser prairie-chicken, even though this magnificent bird suffered a 50% decline in population from 2012 to 2013 and still faces a multitude of threats.
- **Thompson (R-PA-5) ESA/Northern Long-Eared Bat amendment**

This amendment would prevent FWS from protecting the highly imperiled northern long-eared bat as an endangered species under the ESA. This amendment inappropriately interferes with the agency's decision-making process under the Act. Moreover, the agency recently listed the bat as threatened, making this amendment untimely and unnecessary.
- **Gosar (R-AZ-4) ESA/Sonoran Desert Tortoise amendment**

This amendment would prevent FWS from listing the imperiled Sonoran desert tortoise under the ESA. The tortoise, which has been a candidate for listing since 2010, experienced a 51 percent population decline from 1987 to 2006 and currently faces numerous threats including improper livestock grazing, human depredation and climate change. Delaying a listing for the desert tortoise will ultimately make the species' recovery longer, more costly and more burdensome.

- **Rokita (R-IN-4) ESA/Mussels amendment**

This amendment would block all federal funding for six species of endangered mussels under the ESA, thwarting recovery efforts for these important indicator species. The amendment would eliminate funding for recovery efforts such as federal-state captive breeding programs, law enforcement efforts and consultations.

- **Lamborn (R-CO-5) ESA/Preble's Meadow Jumping Mouse amendment**

This amendment would block federal funding for the threatened Preble's Meadow Jumping Mouse under the ESA, thwarting recovery efforts for this western species, which continues to experience habitat loss and face other threats throughout its range. It would eliminate crucial recovery programs for the mouse, such as Habitat Conservation Plans, that require the participation of private and public land managers as well as federal funding.

- **Lamborn (R-CO-5) ESA/Status Review amendment**

This amendment would block ESA protections for listed species if FWS does not complete its 5-year review as required by the law on time.

Anti-ESA amendments that were awaiting recorded votes when the bill was pulled.

- **Newhouse (R-WA-4) ESA/Gray Wolf amendment**

This amendment blocks the protection of gray wolves in WA, OR and UT under the ESA, thwarting recovery efforts in three states with suitable habitat where gray wolves are just beginning to repopulate.

- **Westmoreland (R-GA-3) ESA/"Sue and Settle" amendment**

This amendment would limit the citizens' right to go to court to challenge government action under the ESA, the Clean Air Act and the Clean Water Act by barring the payment of citizens' legal fees whenever the parties avoid costly litigation by agreement to a settlement or decree.

- **LaMalfa (R-CA-1) ESA/Attorney's Fees amendment**

This amendment would undermine the ability of citizens to recovery attorney's fees when they prevail in lawsuits brought under the ESA. It would make it significantly more difficult for citizens across the political spectrum to obtain counsel to challenge illegal government actions.

ANTI-ESA PROVISIONS IN THE SENATE INTERIOR BILL

Anti-ESA provisions that were already in the underlying bill:

- **Section 110: Gray Wolf**

This provision would legislatively order the Secretary of the Interior to reissue rules delisting gray wolves in Wyoming and the Great Lakes states and shield those rules from any additional judicial review. The rules were declared unlawful under the ESA and invalidated

by two separate federal judges. This provision would short-stop wolf recovery in the lower-48 states and invite further Congressional micro-management of the ESA.

- **Section 119: Sage-Grouse**

This provision would prevent FWS from even considering greater sage-grouse and the Columbia Basin sage-grouse for possible listing under the Endangered Species Act (ESA) for at least another year. Both populations have waited more than a decade for a listing decision. Additional delays would make conservation and recovery of these grouse more difficult, more expensive and more disruptive in the future. Additionally, the listing decision delay could undermine planning efforts presently underway to balance land uses with sage-grouse conservation on tens of millions of acres in the West. These planning processes could unravel if sage-grouse listing decisions are delayed. The provision also prevents FWS from spending funds to write or issue final rules for the bi-state population of sage-grouse, or for Gunnison sage-grouse. However, FWS already issued a final rule listing the Gunnison sage-grouse as threatened and withdrew its proposed rule for the bi-state population, finding that a listing was not warranted.

Anti-ESA amendments that passed in Committee

- **Moran (R-KS) ESA/Lesser Prairie-Chicken amendment**

This provision would prevent FWS from protecting the threatened lesser prairie-chicken, even though this magnificent bird suffered a 50% decline in population from 2012 to 2013 and still faces a multitude of threats.