

Alaska Wilderness League \* American Bird Conservancy \* Animal Welfare Institute \* Born Free USA  
Californians for Western Wilderness \* Center for Biological Diversity \* Cetacean Society International  
Clean Ocean Action \* Clean Water Action \* Defenders of Wildlife  
Delaware Ecumenical Council on Children and Families \* Earthjustice \* Earthworks  
Endangered Species Coalition \* Environmental Protection Information Center  
Friends of the Sonoran Desert \* Hands Across the Sand \* Hip Hop Caucus  
Humane Society Legislative Fund \* Humane Society of the United States \* Inland Ocean Coalition  
International Fund for Animal Welfare \* International Marine Mammal Project of Earth Island Institute  
Klamath Forest Alliance \* League of Conservation Voters \* Natural Resources Defense Council  
North Central Washington Audubon Society \* Northcoast Environmental Center \* NY4WHALES  
Ocean Conservancy \* Ocean Conservation Research \* Oceana \* Rocky Mountain Wild  
Save the Manatee Club \* Sierra Club \* The Marine Mammal Alliance Nantucket  
The Wilderness Society \* Trap Free Montana Public Lands, Inc. \* Western Watersheds Project  
Whale and Dolphin Conservation \* WildEarth Guardians \* Wildlands Network

May 21, 2018

**RE: Oppose Anti-Environmental Riders in the NDAA**

Dear Representative:

We write to urge you to oppose several harmful, controversial, and extraneous anti-environmental provisions included in H.R. 5515, the National Defense Authorization Act for Fiscal Year 2019 (NDAA). These provisions in the House NDAA bill would undermine laws that safeguard our nation's wildlife, public lands, and water resources. These riders are political in nature, unrelated to national security, and will make passing the NDAA more difficult in already partisan times. Most of these provisions have been included in past NDAA bills, but were removed in conference, as past conferees responsibly recognized the senselessness in including these unnecessary riders. Once again, the House NDAA bill is simply being used as a vehicle to advance unrelated measures that attack fundamental environmental protections.

The anti-environmental riders, detailed below, would block or remove Endangered Species Act (ESA) protections for the greater sage-grouse, lesser prairie-chicken, and American burying beetle; weaken a core safeguard of the Marine Mammal Protection Act (MMPA); and circumvent longstanding protections for National Wildlife Refuge System lands and other public lands by overriding National Environmental Policy Act (NEPA) protections for land withdrawals.

- **Bishop ESA amendment** – This rider interferes with science-based decision making under the ESA and citizens' access to courts. (*Title III, Subtitle B, Section 314*)
  - **American Burying Beetle:** The provision immediately and permanently delists the endangered American burying beetle, even though the best available science shows

us that the species is still far from being biologically recovered. A U.S. Fish and Wildlife Service (FWS) fact sheet that was last updated on March 12, 2018 explains that the species is nearing extinction.

- **Sage-grouse:** The provision further prevents the FWS from listing the greater sage-grouse for at least 10 years. In 2015, FWS determined that the greater sage-grouse was not warranted for listing under the ESA citing the unprecedented, landscape-scale National Greater Sage-Grouse Planning Strategy as reducing threats to the species. Now, Secretary of the Interior Zinke has initiated a process that will reduce protections for species under the Planning Strategy even as sage-grouse populations continue to decline. Given the current administration's apparent intention to undermine the Planning Strategy, the ability to protect sage-grouse under the ESA is more crucial than ever.
  - **Lesser Prairie-Chicken:** The provision would also block ESA protections for the imperiled lesser prairie-chicken for at least 10 years in complete disregard for the species' biological status. FWS is currently reviewing the status for the lesser prairie-chicken, which occupies less than 15 percent of its former range and experienced a population drop of 50% between 2012 and 2013.
  - **Access to Courts:** Finally, the provision prevents members of the public from challenging these decisions in court, undermining a core value of our democracy.
- **Undermining Safeguards of the Marine Mammal Protection Act** – This rider would amend the Marine Mammal Protection Act (MMPA) of 1972 to extend the authorized period for permitting take of marine mammals by military readiness activities from five years to 10 years. Under current law, the military must review marine mammal take permits (known as Letters of Authorization, or LOAs) every five years, which ensures that the military uses up-to-date science and appropriate mitigation measures. During each five-year environmental review, the military (usually the Department of the Navy) must consult with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service to analyze the impacts of its readiness activities, estimate incidental take of marine mammals, and determine appropriate mitigation measures in coordination with agency scientists. The U.S. Navy's activities produce significant amounts of take through the use of sonar and explosives, among other means. Because marine mammals are extremely difficult to monitor in the wild, current federal law requires that the Department of Defense obtain authorization from wildlife agencies at intervals no greater than every five years. The rider would undermine this critical safeguard, which helps prevent these vulnerable species from being listed as threatened or endangered. (*Title III, Subtitle B, Section 313*)
  - **Circumventing Process for Withdrawal of Public Lands** – This rider would amend the Sikes Act by eliminating the U.S. Fish and Wildlife Service as the requisite agency to coordinate on preparation of integrated natural resources management plans for military installations. This needless change in policy could prevent the federal agency best equipped

to advise on wildlife management and threatened and endangered species conservation from engaging in these planning processes. The rider also eliminates the Congressionally mandated renewal process under the National Environmental Policy Act for public lands proposed for withdrawal for military use, excluding robust, transparent public participation in decision-making and abdicating Congress's role as final arbiter of these planning processes. These provisions threaten hundreds of thousands of acres of public land, including more than 800,000 acres of national wildlife refuge lands (such as Desert Refuge in Nevada), jeopardizing wildlife, public access and recreation, and affecting other lawful multiple uses. Another section in the rider would circumvent the current withdrawal and public review process by allowing the Secretary of the Interior to administratively permit temporary use of public lands for military purposes. Finally, provisions in the rider would allow the Secretary of the Interior to transfer administrative jurisdiction of parcels of public land up to 5,000 acres in size to military departments, excluding public input on these decisions. Entire refuges and national parks could be subsumed by military transfer under this provision. (Title XXVIII, Subtitle D, Section 2831)

We ask you to ensure that these pernicious riders are removed from any final NDAA legislation. Thank you for your consideration.

Sincerely,

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