



September 14, 2020

The Honorable John Barrasso
Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

RE: Endangered Species Act Amendments of 2020

Dear Senator Barrasso, MD:

The members of the Montana Wood Products Association would like to take this opportunity to thank you for your in-depth review of the Endangered Species Act (ESA) and crafting important and long-awaited amendments to the Act.

Montana is home to five endangered species and 10 threatened species, including the grizzly bear, bull trout and the Canada lynx. The US Forest Service, Region One, has nine lawsuits involving ESA complaints currently awaiting court decisions. Most notably involving the grizzly bear and the Canada lynx. These lawsuits have stymied hazardous fuel reduction projects from moving forward with important environmental analysis and project implementation.

The issues surrounding lynx critical habitat were compounded with a 2015, Ninth Circuit Court *Cottonwood* decision that the U.S. Forest Service needed to reinitiate consultation with U.S. Fish and Wildlife Service at the programmatic level. As a result, courts halted projects during the consultation process throughout 18 national forests inhabited by lynx. In 2018, a partial legislative fix was achieved, but “new information” claims under the *Cottonwood* decision continue to have damaging implications for forests in Montana and across the West. Therefore, we support ESA reforms leading to better resource management on the ground and a path forward for species down-listing or delisting.

Montana’s elected leaders and interested stakeholders are working together to keep the sage grouse and the little brown bat from receiving an adverse ESA listing and to secure a path forward to delist the grizzly bear in Montana. Therefore, there are several provisions in the proposed amendments to the ESA that not only strengthen federal-state conservation partnerships and decision-making processes, but also provide an important path to species recovery, down-listing, or delisting.

It is important that recovery goals be based on the best scientific and commercial data available, to the maximum extent practicable, and contain objective and measurable biological criteria. In addition, development of recovery plans, implementation plans and implementation must be informed by

feedback from parties with a direct interest in the land in which the relevant species is believed to occur, including qualified scientists and representatives of private and public landowners, agricultural and energy production, natural resource commodity groups and user industries, homebuilders, water resources groups, outdoor recreation groups, environmental groups, and land, habitat, and wildlife conservation groups.

We support that the Secretary shall provide the state the opportunity and increased flexibility to lead recovery and implementation planning, and implementation to expedite threatened or endangered species recovery by supporting state-level initiatives and partnerships.

We support encouraging conservation activities that gives weight to voluntary conservation agreements benefiting species and their habitats, that include states, tribes, local governments, landowners, and other impacted stakeholders

Since Montana has been ground zero for litigation for the past 30 years, it is imperative that the Secretary make publicly available any action brought for an alleged failure by the Secretary to perform any non-discretionary act or duty under section 4 of the ESA. Each affected party should be given a reasonable opportunity to move to intervene in the action prior to a filling of a motion for a consent decree or to dismiss the case pursuant to a settlement agreement. In addition, any settlement discussions relating to the action should include each intervenor that is an affected party.

Again, we wish to express our sincere appreciation for your review of the Endangered Species Act and to bring forward much anticipated amendments that will aid in recovering species of concern and that gives states and impacted parties equal standing in their recovery.

Best wishes,

Julia Altemus

Julia Altemus
Executive Director