

Montana Native Plant Society comments on a proposed rule change to the Federal Endangered Species Act by the Department of the Interior: Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat (Docket No. FWS-HQ-ES-2019-0115; FF09E23000 FXES1111090FEDR 201)

Submitted 21 September 2020

Thank you for the opportunity to comment on the proposed changes to the Endangered Species Act of 1973 (ESA). We are writing on behalf of over 700 members of the Montana Native Plant Society (MNPS). The Society is a non-profit organization dedicated to preserving, conserving, and studying Montana's native plants and plant communities, and educating the public about the values of our native flora and its habitats. The Department of Interior proposes to amend portions of the regulations that implement section 4 of the ESA. The ESA is critical for protecting the biological diversity of our public lands. MNPS believes that the proposed changes to the rules of the ESA are misguided and meant to "gut" the Act to the detriment of many and the benefit of few.

Under the proposed changes The Secretary of the Interior would be able to exercise the broad discretion to exclude areas whenever they determine that "the benefits of exclusion outweigh the benefits of inclusion for that area, so long as excluding it will not result in the extinction of the species." This makes no sense. Critical habitat is designated because it is deemed necessary for the long-term survival of a species. By definition designated critical habitat is necessary to minimize long-term extinction risk, so all critical habitat is necessary to prevent extinction, and the proposed changes are not necessary.

The proposed changes emphasize exclusion of critical habitat based on competing economic or recreational development. In many, if not most cases of species endangerment, human development and ensuing pressure on species habitat has promoted the loss of critical habitat. It is not appropriate to discount critical habitat for endangered species based on the factors contributing to endangerment. The intrinsic value of endangered species worth is not comparable to the speculations and analysis of present day economic gain.

The ability to provide full disclosure of discretionary decisions already exists within ESA. The proposed changes emphasize a reprioritization of biological factors which determine critical habitat to that of eliminating critical habitat designations based on economic gain.

Furthermore, in the case of plants, critical habitat applies only to federal lands. The Montana Native Plant Society believes that the primary function of federal lands is the protection of biological diversity; i.e., the species and processes that bring about this diversity. We believe that the proposed rule changes are contrary to the intent of the ESA. National security may be an acceptable reason for non-designation of critical habitat; however, non-designation for other "benefits," including short-term financial or recreational gains is not acceptable and is contrary to the intent of the ESA.