



**American  
Exploration & Mining**  
ASSOCIATION

July 12, 2018

The Honorable Paul A. Gosar, D.D.S  
Chairman  
Subcommittee on Energy and Mineral Resources  
House Natural Resources Committee  
2057 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Gosar:

American Exploration & Mining Association (AEMA) strongly supports the Congressional Western Caucus' efforts to modernize the Endangered Species Act (ESA) through a package of eight targeted bills. As you and many stakeholders across the West have long recognized, the ESA has become a tool of environmental groups that oppose responsible mining, productive use of the land, and job creation. The ESA has proved to be ineffective at protecting and recovering species. AEMA fully supports efforts by Congress to modernize the ESA, and the introduction of this reasonable, common-sense legislation is an important step in that process.

More resources are spent by the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) on ESA paperwork and litigation than providing on-the-ground conservation of species and their habitat. The lack of effectiveness of the ESA is clear in that only about 2% of listed species have actually been recovered. It is time to modernize the Act to refocus it back to the original intent of protecting an recovering species.

Federal ESA listings often thwart existing state, local and private efforts to protect species, and the threat of a listing may disincentivize voluntary conservation efforts under current regulations. Rather than imposing one-size-fits-all species listings that harm communities and obstruct on-the-ground conservation, FWS and NMFS should support and defer to state and local plans and promote reliable voluntary conservation agreements.

For the last 30 years, Congress has been unable or unwilling to successfully provide meaningful changes to the ESA while allowing FWS and NMFS free reign to fundamentally alter and strengthen the regulatory strengthen power of the ESA through rulemaking after rulemaking. Reform is necessary because there are clear shortcomings associated with the upkeep and recovery rate of listed species. Congress intended for the ESA to protect species from extinction, but the law fails to accomplish this intended purpose by prioritizing species listings over actual

recovery and habitat conservation. Unfortunately, the law fails to provide adequate incentives for working lands species conservation and imposed far-reaching regulatory burdens, which restrict mining's ability to produce the minerals necessary for national defense, modern technology and economic prosperity.

The LAMP Act and the EMPOWERS Act would strengthen and codify the roles of states and local governments, giving greater weight to the jurisdictions and people who are most affected by listing decisions. The LOCAL Act and the PREDICTS Act would provide more regulatory certainty for voluntary conservation efforts, thereby encouraging the participation in and effectiveness of these programs.

Congress also can improve implementation of the ESA by allowing FWS and NMES to utilize its limited resources in the most efficient manner possible. Currently, resources are tied up responding to bulk petitions submitted by activist organizations with the specific goal of suing FWS and NMFS when it unsurprisingly fails to meet the rigid deadlines of the law. The PETITION and LIST Acts would allow the Service to prioritize and respond to the backlog of petitions without the constant threat of legal action, thereby ensuring reviews are conducted in a thorough and accurate manner while enabling resources to be transferred fro legal defense to species recovery.

Finally, the designation of critical habitat can be and has been used as a tool to limit economic development rather than primarily focused on species protection. The WHOLE Act would reorient critical habitat destinations to the original intent of the ESA by allowing for mitigation offsets of critical habitat disturbance in non-critical areas, which would ensure responsible resource development can continue to coexist with species conservation.

AEMA appreciates these draft bills from members of the Congressional Western Caucus identify critical concepts for ESA modernization and provide the foundation for sensible changes. AEMA urges Congress to pass legislation updating the ESA with targeted changes to improve the consistency and effectiveness of the law. We appreciate your leadership on this issue.

AEMA is a 123-year old, 2,000-member national association representing the minerals industry with members residing in 42 U.S. states, seven Canadian provinces or territories, and 8 other countries. AEMA is the recognized national voice for exploration, the junior mining sector, and maintaining access to public lands, and represents the entire mining life cycle, from exploration to reclamation and closure. More than 80% of our members are small businesses or work for small businesses.

Sincerely,



Laura Skaer  
Executive Director