

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 27, 2022

Honorable Martha Williams
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20250

Honorable Richard W. Spinrad, Ph.D.
Under Secretary of Commerce for Oceans and Atmosphere & Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Director Williams and Administrator Spinrad:

As you are no doubt aware, on September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit vacated the Northern District of California's July 5, 2022, order remanding and vacating the 2019 Trump administration's Endangered Species Act (ESA) section 4 and section 7 rules.¹ Unfortunately, this means that the 2019 Trump administration ESA handouts to polluters are back in effect.

On April 6, 2022, I sent a letter requesting that the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (collectively, the Services) expedite the rulemaking process to repeal these regulations and inform the Committee of the status of the proposed revisions of the 2019 ESA rules. Your agencies' joint response in August of this year explained that given that a U.S. district court, on July 5, 2022, vacated these three rules, the effect of which was all five regulations had been overturned by the courts or dealt with by the agencies.

However, due to the lack of action by your agencies, the status of those three rules is now in doubt once again. The district court hearing is scheduled for October 20, 2022, but there is uncertainty about when or how the court will rule after the hearing. Based on this uncertainty, I again urge you to move forward with rescinding the proposed rules for the three Trump-era regulations to restore much-needed protections for endangered and threatened species and the public's trust in the Services.

To restore the integrity of the ESA, I urge you to fulfill your duties and work on *both* the litigation and the rules. Relying on the legally defective 2019 ESA rules until the district court rules at some

¹ See *In re Washington Cattlemen's Ass'n.*, Case No. 22-70194 (9th Cir. Sept. 21, 2022). The Ninth Circuit vacated the district court order pending the district court's consideration of the plaintiffs' motion to amend that order and judgment.

point in the future is not a plan. Refusing to fulfill your legal obligations under the ESA undermines public trust and continues to put polluters in charge of protected imperiled species and their habitats.

Should you have any questions about this request, please contact Lora Snyder on my staff at Lora.Snyder@mail.house.gov. I look forward to hearing from you before October 20.

Sincerely,



Raúl M. Grijalva
Chair
Committee on Natural Resources