

Congress of the United States
Washington, DC 20515

January 30, 2018

The Honorable David Bernhardt
Acting Secretary
Department of the Interior
1849 C Street, NW
Washington DC 20240

The Honorable Wilbur Ross
Secretary
Department of Commerce
1401 Constitution Avenue, NW
Washington DC 20230

Dear Acting Secretary Bernhardt and Secretary Ross:

I am writing regarding three proposed rules pertaining to the implementation of the Endangered Species Act (ESA) (FWS-HQ-ES-2018-0006, FWS-HQ-ES-2018-0007, and FWS-HQ-ES-2018-0009). These proposed rules would fundamentally undermine the ESA by putting politics over science.

Deputy Secretary Bernhardt asserted in July 2018 that these regulations were developed “with a team of people that are long-term practitioners” of the Endangered Species Act.¹ Your departments have repeatedly suggested that these proposals were created and supported by career staff (cite). However, documents that were inadvertently released to the public relating to one of the three proposed rules — Revision of the Regulations for Listing Species and Designating Critical Habitat — show that a clean version of the document prepared by career staff was significantly different than the version that was released to the public in July of last year.²

The clean version of the listing and critical habitat regulations did not include the most problematic aspects of the rule released to the public, including the requirement to assess some of the economic impacts of listing species and the definition of “foreseeable future” that would restrict the ability of the agencies to consider the threats from climate change. I am concerned that these proposed changes to the regulations may have been inserted by political appointees late in the process, may not, in fact, represent the work of career staff in the agencies, and may disregard the scientific input provided by the rules’ authors.

In order to assist this Committee in its oversight responsibilities, please provide the following documents as soon as possible, but no later than February 13th, 2019.

1. The three clean draft proposed rules that were completed by career staff prior to their review and prior to any edits or changes by any political appointee within the Trump

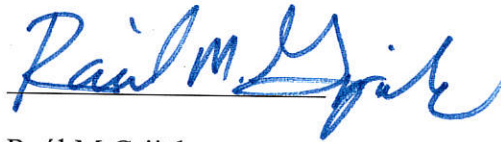
¹ Jackie Coffin, Jul. 19, 2018, KULR8 News: Changes coming to Endangered Species Act to reduce “unnecessary burdens” on agencies, *see* <http://www.kulr8.com/story/38685493/changes-coming-to-endangered-species-act-to-reduce-unnecessary-burdens-on-agencies> (last accessed November 15, 2018).

² <https://cbddocs.blob.core.windows.net/foia-docs/XEZFREVSQUwgRk9JQSBSRUNPUkRTXEIOVEVSSU9SIERFUCdUXEZ XUyBSZWNvcmRzXEZXUy0yMDE4LTAwMzA0IChSZXYuIG9mIFJlZ3MgVg8gQWRkcmVzcyBJQ2FuZEUGUklOICMgMTAxOC1CQzg3K VwYmDE4LjA1LjA5IENEXzFcTkNUQyBpbjBEZWwgMjAxN1wyMDE4LjA1LjA2IF8xNzAwXzFmMjAxODAxMjlfchJvcG9zZWQgNDI0IHJ1bGVfY2x1YW5fZW5fZWRpdHMucGRm.pdf>

- administration, including but not limited to David Bernhardt, Aurelia Skipwith, Todd Willens, Jason Larrabee, or political appointees within the Department of Commerce.
2. The three clean draft proposed rules that were transmitted to OIRA on April 2, 2018, prior to any interagency review, edits, or changes by staff within the White House.
 3. The identity of any political appointee at both the Department of Commerce and the Department of the Interior (both in confirmed and non-confirmed positions) that have reviewed and/or edited any of the three regulations at either the proposed rule or final rule stage, and the edits they made.

Please contact Lora Snyder (202-225-6065) on my staff with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Raúl M Grijalva
Chairman
Committee on Natural Resources

Cc:

The Honorable Naomi Rao
Administrator
Office of Information and Regulatory Affairs
725 7th Street, NW
Washington DC 20503