

American Bird Conservancy * American Rivers * Center for Biological Diversity * Clean Water Action * Defenders of Wildlife * Earthjustice * Endangered Species Coalition * Environmental Defense Fund * EPIC - Environmental Protection Information Center * Humane Society Legislative Fund * Klamath Forest Alliance * League of Conservation Voters * National Audubon Society * Natural Resources Defense Council * Sierra Club * The Humane Society of the United States * The Wildlands Network * WildEarth Guardians

RE: Please Oppose Non-Germane Amendment by Rep. Lucas that Would Undermine the Endangered Species Act on the National Defense Authorization Act

May 14, 2015

Dear Representative,

On behalf of the millions of Americans represented by our organizations, we are writing to urge you to vote NO on a non-germane amendment proposed by Rep. Lucas to H.R. 1735, the National Defense Authorization Act for 2016 (NDAA), that would undermine the Endangered Species Act (ESA) by legislatively delisting two protected species. For over 40 years, the ESA has successfully protected our irreplaceable wildlife heritage for current and future generations. It has prevented the extinction of hundreds of plants and animals, including the peregrine falcon, the Florida manatee, the American alligator and our nation's symbol – the bald eagle. Rep. Lucas' amendment is a cynical and inappropriate attempt under the guise of national security to micro-manage individual, biology-based administrative decisions under the ESA, and swap out science for politics.

This amendment does not belong in the NDAA.

This amendment was not requested by the Department of Defense, is unrelated to military readiness and does not belong on the NDAA. There is absolutely no reason to include such an unrelated amendment on one of the most important pieces of legislation that Congress passes each year. This amendment is an opportunistic attempt to use the NDAA as a vehicle to strip needed ESA protections from two biologically imperiled species and will only invite such similar attempts to attach a range of unrelated provisions in the future. The inclusion of sweeping language in the underlying NDAA bill that would delay an ESA listing decision for the greater sage-grouse for at least ten years and take the unprecedented step of transferring oversight of as many as 60 million acres to western states is further evidence that the NDAA bill has been seized upon as an opportunity by ESA opponents in their quest to weaken the law. Moreover, the ESA already includes exemptions for national security and for the Department of Defense.

This amendment will jeopardize recovery of the threatened lesser prairie-chicken.

This amendment would jeopardize lesser prairie-chicken recovery by statutorily delisting the imperiled bird, and preventing its relisting for at least six years. Moreover, it would impose arbitrary restrictions on whether the Secretary of the Interior can relist the lesser prairie-chicken after that time, in complete disregard for the species' biological status and need for federal protections. The species currently occupies less than 15 percent of its former range and its population dropped by 50 percent between 2012 and 2013, eliminating any doubt that the species requires the protections of the ESA. Although the U.S. Fish and Wildlife Service (FWS) found in 1998 that the lesser prairie-chicken warranted federal protection, it was not listed until 2014. The listing was accompanied by a special 4(d) rule that exempts numerous land use activities, including oil and gas development and agricultural activities that meet certain standards. Contrary to the hysterical predictions of the

economic ruin of the oil and gas industry from the prairie-chicken's listing, the industry has indicated it has already easily adjusted to FWS's listing decision.¹ Removing federal protection for the bird just one year after it was listed would be detrimental to its conservation and recovery.

This amendment would jeopardize the conservation and recovery of the endangered American burying beetle.

This amendment would also immediately and permanently remove the American burying beetle from protection under the ESA and prevent it from receiving any protections in the future. The American burying beetle formerly occupied a vast range encompassing 34 states and the District of Columbia, and may have occurred in the tens of millions. The beetle's decline is not well understood, but the most cogent hypotheses see it as a victim of food chain disturbances which reduced the number of large carcasses that the beetle depends on for reproduction. In fact, the decline and eventual extinction of once-plentiful birds like the passenger pigeon and the greater prairie-chicken have been linked to the beetle's decline.² Rep. Lucas's meddlesome, anti-science amendment would be yet another disruption of the food chain, which is sure to have further similar ripple effects. If passed, it would be a virtual death sentence for this indicator species, which restores valuable nutrients to the soil, and which has not stopped a single project from going forward under the ESA's consultation process since 2008, nor required a project alternative to be used.

Again, please vote NO on this cynical and opportunistic attempt to use the NDAA as a vehicle to undermine the ESA. Thank you for your consideration.

Sincerely,

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¹ Mella McEwan, "Oil Producers Adjust to Lesser Prairie-Chicken Listing," *Midland Reporter Telegram*, Aug. 25, 2014, available at: http://www.mrt.com/business/article_3cd58136-2c74-11e4-937c-001a4bcf887a.html.

² Sikes, D.S. 2002. A review of hypotheses of decline of the endangered American burying beetle (Silphidae: *Nicrophorus americanus* Olivier). *Journal of Insect Conservation* 6: 103–113.