

From: "Bill Sayre" <wrsayre@sover.net>
Date: April 7, 2016 at 3:33:32 AM EDT
To: "Christopher Bray" <cbray@sover.net>
Subject: Concerns about Endangered Species Legislation

Dear Sen. Chris,

Thank you for the opportunity to testify before the Natural Resources Committee Wednesday. Below I will summarize the key points I hope you will consider and address, as you review the proposed legislation on threatened and endangered species.

Before discussing threatened and endangered species, I want to be sure to say that the forest products industry supports reinstating the nuisance suit language into the right to harvest legislation.

Before turning to specific issues and questions, I want to explain why so many of us in the industry are concerned. About 25 years ago in the far West, tens of thousands of our colleagues in the forest products industry, lost their jobs in the name of protecting the Spotted Owl, an endangered species. Subsequent research showed that timber harvesting may well have helped improve habitat for Spotted Owls, not the contrary. And that the main threat to the Spotted Owl came from another species of owl, not from timber harvesting. But it was too late. The mills and the jobs were gone, and unlikely ever to return. We don't want that to happen in Vermont.

While most all of us agree that it is important to protect threatened and endangered species, many of us don't believe this legislation is the best way to do so. Indeed, because the legislation reaches so far beyond current law, and contains so many ill-defined, ambiguous, and subjective terms, it runs the risk of damaging the cooperative relationships with private landowners, and defeating its own purpose.

Most of my concerns fall under two headings. An enormous expansion in the potential number of species covered, and an equally enormous and uncertain increase in the geographic area potentially designated as critical habitat. Especially for species at the edge of their range in Vermont, and therefore unusual here, but not threatened or endangered in the nation as a whole. And the land that may be designated as critical habitat for such species. The resulting uncertainty discourages individuals, families, and enterprises from investing in forestland, and long term forest management.

Here a few examples, posed in the form of unresolved questions about the legislation.

What is the implication of including "subspecies" in the definition of species and thereby, as a trigger for designating critical habitat It seems to me that this drastically increases the potential number threatened and endangered species

What is the implication of removing the word "significantly" before the word "declining" as one of the tests for whether a species is threatened or not Another enormous increase in the potential number of threatened species and subspecies, and their critical habitat

What is the implication of including “habitat that is hydrologically connected” as part of critical habitat that is outside the area occupied by the threatened or endangered species

What is the implication of including fungi, and by implication, subspecies of fungi, in the category of potentially threatened or endangered species Are we talking about millions of additional subspecies and species, or just tens of thousands?

What is the implication of including, under the heading of “destroy or adversely impact”, “indirect activity that negatively affects the value of critical habitat for the survival, conservation, or recovery of a listed threatened or endangered species” What activity would not be included under this definition?

What is the implication of including under the definition of “take”, the words “an act that creates a risk of injury to wildlife, whether or not injury occurs”

Why is it necessary to create a “criminal prosecution” category of violation Where is the abuse, the crisis, that warrants this escalation? If this legislation creates a new crime, should it not be considered by the Judiciary Committee?

What is the implication of designating critical habitat decisive to the “recovery” of a species or subspecies

What is the implication of designating as critical habitat, lands that were “historically occupied” or the object of “historic use” by a species or subspecies? Especially combined with the language to create recovery programs Doesn’t this create the possibility of designating large swaths of land as critical for the recovery of species or subspecies no longer here? Some people, for example, may believe that the timber wolf should be recovered in Vermont, and that tens of thousands of acres should be designated critical, to do so

What is the implication of designating as critical habitat “migration corridors”?..... How many additional potential acres could this involve?

On the list of factors that should be considered in designating critical habitat, two additional recommendations: One, on factor No. 11, cumulative impacts, please add the words, “including both environmental and economic impacts Two, please add factor No. 12, the effect on the use and value of private property to be designated as critical habitat

Does the legislation create an unintentional prohibition against legitimate and traditional trapping? The legislation appears to prohibit trapping when it “creates a risk of injury to wildlife whether or not injury occurs” Wildlife in this phrase refers to threatened or endangered species But how does the trapper know? If there is a risk that the trapper could go to prison, doesn’t the legislation have the effect, indirectly, of prohibiting trapping? And because the legislation appear to create the same penalties for those who “assist another” in trapping, what landowner would allow trapping on his land?

Thanks,

Bill

<http://legislature.vermont.gov/assets/Documents/2016/Docs/BILLS/H-0552/H-0552%20As%20Passed%20by%20the%20House%20Unofficial.pdf>