

Congress of the United States

Washington, DC 20515

July 27, 2026

The Honorable Doug Burgum
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington DC 20240

The Honorable Howard Lutnick
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretaries Burgum and Lutnick,

We write to express strong opposition to the U.S. Department of the Interior and the U.S. Department of Commerce final rule 91 FR 43300 (“the rule”) rescinding the regulatory definition of “harm” in Endangered Species Act (ESA or “the Act”) regulations. Removing habitat modification and degradation from the fundamental and long-held definition of “harm” amounts to an endorsement of habitat destruction. Given that habitat loss is the leading cause of species extinction, the rule is in direct opposition to the ESA’s stated purpose “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved,” a key component for the conservation of the species themselves.¹ This change will significantly impede efforts to protect and conserve our nation’s threatened and endangered species of fish, wildlife, and plants.

For decades, the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) definitions of “harm” under the ESA have included and prohibited “significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering,” unless the Secretary issues a permit for an ESA exemption.² The Act was written to be responsive to the nation’s conservation and non-conservation natural resource needs, and it has done so. Per the FWS itself, ESA has “proven to be incredibly effective in stabilizing populations of species at risk, preventing the extinction of many others, and conserving the habitats upon which they depend,” under a “broad and flexible framework.”³

Since its passage in 1973, the ESA has prevented the extinction of an estimated 291 species—saving 99% of the species under its purview.⁴ The species granted protections presently or previously under the Act include many flora and fauna that are iconic parts of our State and national heritage, including the Florida panther, the manatee, the American crocodile, and the hawksbill sea turtle, among others. Many of these species are found nowhere else on earth and rely directly on ESA protections for their continued survival. Removing habitat protections for these unique and irreplaceable plants and animals allows the inevitable encroachment of development and industry, leaving endangered flora and fauna with nowhere to go.

¹ <https://www.fws.gov/sites/default/files/documents/endangered-species-act-accessible.pdf>, page 3

² <https://www.law.cornell.edu/cfr/text/50/17.3>

³ <https://www.fws.gov/initiative/protecting-wildlife/endangered-species-act-implementation>

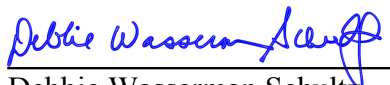
⁴ Greenwald, Noah et al. “Extinction and the U.S. Endangered Species Act.” 22 April 2019.

Florida's outdoor economy generates billions in revenue for the State and is a huge driver of tourism to the region and country. Millions of Floridians rely on this tourism for their livelihood. Our unique landscapes and marine environments, from the Everglades to the mangrove swamps and Florida Reef, are biodiversity hotspots. The Everglades system alone is home to more than 60 endangered species, including our state animal and state reptile.⁵ The rule change directly threatens the unique habitats that support the plants and animals for which our state is renowned.

Climate change coupled with unprecedented urban growth in Florida and around the nation has pushed our wildlife to the brink. This rule will significantly weaken the ESA and usher in the often-irreversible loss of habitat, hastening the extinction of plants and animals that are a vital part of our state's culture and tourism economy.

We urge you to withdraw the rule immediately and restore the "harm" definition in the ESA, as upheld in *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*.⁶ We look forward to your cooperation in preserving the rich biodiversity of our beloved home state for future generations.

Sincerely,



Debbie Wasserman Schultz
Member of Congress



Darren Soto
Member of Congress



Maxwell Alejandro Frost
Member of Congress



Kathy Castor
Member of Congress

⁵ <https://www.floridamuseum.ufl.edu/earth-systems/blog/habitats-biodiversity/>

⁶ *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995).