

Paul Souza
Acting Director
U.S. Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, VA 22041-380

RE: Bird Conservation Groups Oppose Proposed Rule to Rescind the Definition of Harm under the Endangered Species Act, Docket FWS-HQ-ES-2025-0034

19 May, 2025

Dear Director Souza,

The 88 groups signed below are writing in strong opposition to rescinding the definition of harm under the Endangered Species Act, Docket FWS-HQ-ES-2025-0034. 89 species of North American birds are protected under the Endangered Species Act (ESA). Some of the most prominent de-listing success stories, such as the Bald Eagle and Kirtland's Warbler, were possible due habitat protections mandated by the ESA.ⁱ

The current definition of harm ensures that bird species which rely on specific habitat types for sheltering, feeding, nesting, or breeding displays, are protected. For many of these species, direct "take" as currently defined is *not* a major threat to their survival; high-quality habitat is the most important factor. According the US Fish and Wildlife Service website,

"Millions of acres of bird habitat are lost or degraded every year due to development, agriculture, and forestry practices. These rapidly accelerating impacts can be mitigated only through habitat restoration and protection [bold added].ⁱⁱⁱ"

North America is currently experiencing a decline of nearly 3 billion birds since 1970.ⁱⁱⁱ Grassland birds and those which eat insects are identified as being in particularly alarming decline. These two groups of birds are not likely to continue to decline from direct take; they will be victims of habitat loss and degradation. Birds are not just residents of a particular area - they are vital part of its fabric.

The following examples are just some of the dozens of examples of listed species which will decline, if not disappear, without habitat protections in the ESA and serve as a model for future species which may be listed.

Red-cockaded Woodpecker (*Picoides borealis*) – reliant upon open pine woodlands and savannahs for nesting, roosting, and feeding. Species is in

decline, in part, due to loss of older trees with decayed heartwood which make for ideal nesting conditions.^{iv}

Attwater's Prairie-chicken (*Tympanuchus cupido attwateri*) – occurs in only three geographic areas. Habitat destruction and degradation leading to genetic isolation and lack of adequate breeding grounds, paired with a low likelihood of success reproduction in captivity, make this species particularly vulnerable to habitat interruptions.^v

Marbled Murrelet (*Brachyramphus marmoratus*) – a seabird that requires very specific nesting conditions in Pacific coast mature and old growth trees to reproduce. Pairs will rear only one chick per year and continued forest development reduces nesting opportunities and provides for invasion of predatory species.^{vi}

Mississippi Sandhill Cranes (*Grus canadensis pulla*) – a subspecies of Sandhill Crane that has become reproductively isolated and is in danger of extinction. Major reasons for the decline include "loss of habitat, ...habitat degradation, ... toxins in the environment, ... or a combination of these factors."^{vii}

Piping Plover (*Charadrius melodus*) – a shorebird which is listed as endangered in the Great Lakes region and threatened everywhere else in its range. Habitat loss, human disturbances of nesting areas, and an environment supportive of invasive species which prey upon the birds and their chicks all contribute to their current status.^{viii}

While critical habitat designations will remain vital for current and future listed species, significant habitat modification or degradation which will lead to the loss of individuals or groups of a species should be taken just as seriously, if not more so, than actions intended to directly kill and individual or group.

We urge you not to rescind the current definition of harm.

Sincerely,

American Bird Conservancy
American Bird Conservancy Action Fund
Animal Welfare Institute
Arkansas Valley Audubon Society
Audubon Colorado Council
Baltimore Bird Club, Inc.
Bird Safe Nashville
Birds Georgia
Bozeman Birders

CA Native Plant Society, Marin Chapter
Cactus Wren Initiative
Chicago Ornithological Society
Coastal Bend Audubon Society
Connecticut Butterfly Association
Cora Hartshorn Arboretum
Cottage Codgers
CPR
CT Pesticide Reform
Darien Green Wave
Darien Pollinator Pathway
Endangered Habitats League
Endangered Species Coalition
Environmental Protection Information Center- EPIC
FOUR PAWS USA
Friends of Malheur National Wildlife Refuge
Friends of Merrymeeting Bay
Gallatin Wildlife Association
Golden Gate Bird Alliance
Grass Roots West Hartford
Grazing Reform Project
Great Meadow Farm
Hawk Migration Association
Hawk Mountain Sanctuary Association
Heartwood
Henry, Bureau & Stark Co. For Rural Rights
International Crane Foundation
JazzSLAM
Lehigh Valley Audubon Society
Los Angeles Audubon Society
Maine Audubon
Maryland Ornithological Association
Maryland Ornithological Society
Massachusetts Pollinator Network
Maya del Sol
Md. Pesticide Education Network
Missouri River Bird Observatory
Monroe Science Ed
Nashville Chapter of The Tennessee Ornithological Society
National Pollinator Pathway
North Cascades Conservation Council
Norwalk River Watershed Association
Oregon Wild
Orleans Audubon Society

People Power United
Peopleandpollinators.org
Pesticide Action and Agroecology Network
Potomac Valley Audubon Society, Inc.
Prince George's County Audubon Society
Project Eleven Hundred
Quad City Audubon Society
Raptors Are The Solution
Re:wild Your Campus
Redding Land Trust
Rockbridge Bird Club
Save Our Cabinets
Sedgwick County Zoo
Society for Conservation Biology North America
songbirdsaver.org
Southeastern Avian Research
Southern Utah Wilderness Alliance
Southern Wisconsin Bird Alliance
Southwest Wisconsin Area Progressives
Space Coast Audubon Society
Sycamore Audubon Society
Tennessee Ornithological Society
The Connecticut Audubon Society, Inc.
The Foodshed Network
The Safina Center
The Trumpeter Swan Society
The Urban Wildlands Group
Traprock Ridge Land Conservancy, Bloomfield, CT (300+ Members)
Western Cuyahoga Audubon Chapter
Wild Arizona
Wild Nature Institute
Wild Ones Mountain Laurel (Connecticut) Chapter
WildEarth Guardians
Words for Birds
Wyoming Wildlife Advocates
Zumbro Valley Audubon

ⁱ <https://www.fws.gov/library/collections/threats-birds>

ⁱⁱ See 1

ⁱⁱⁱ Rosenberg, K. et al. (2019). Decline of the North American Avifauna. *Science*, 366.

^{iv} <https://iris.fws.gov/APPS/ServCat/DownloadFile/257450>

^v <https://www.federalregister.gov/documents/2010/04/26/2010-9605/endangered-and-threatened-wildlife-and-plants-attwaters-prairie-chicken-tympanuchus-cupido-attwateri>

^{vi} <https://abcbirds.org/bird/marbled-murrelet/>

^{vii} https://ecos.fws.gov/docs/recovery_plan/910906.pdf

^{viii} <https://gl.audubon.org/news/hopeful-future-another-record-breaking-season-great-lakes-piping-plovers#:~:text=Challenges%20Facing%20Piping%20Plovers&text=Habitat%20loss%20due%20to%20shoreline,threat%20to%20eggs%20and%20chicks.>