Date: 5/16/2025

Attn: U.S. Fish and Wildlife Service
FWS–HQ–ES–2023–0216
5275 Leesburg Pike
Falls Church, VA 22041–3803

From: The Nevada Chapter of the Wildlife Society

Subject: Comments on the Proposed Rule to Rescind the Regulatory Definition of "Harm" Under the Endangered Species Act

To whom it may concern,

The Nevada Chapter of the Wildlife Society appreciates the opportunity to provide public comment on the proposed rule to rescind the regulatory definition of "harm" under the Endangered Species Act (ESA). Our Chapter represents over 85 wildlife professionals from both the private and public sector including wildlife biologists, ecologists, professors, students, and other natural resource specialists.

The inclusion of "harm" within the regulatory definition of "take" under the Endangered Species Act has been a vital tool for addressing habitat-related threats to listed species. By recognizing that significant habitat modification or degradation can impair essential behaviors such as breeding, acquisition of essential nutrients and food, and shelter, the current definition has helped agencies and stakeholders avoid, minimize, or mitigate indirect impacts on sensitive species and their habitats. The proposed rescission raises significant concerns for Nevada's ecosystems and wildlife, while hindering our ability to proactively conserve these resources.

The proposed change also flies in the face of decades of ecological science, which shows that conservation success depends on maintaining ecosystem integrity, species interactions, and genetic diversity, all which hinge on the preservation of habitat. The ESA was designed to prevent extinction and promote recovery. Stripping habitat protections from the definition of "harm" contradicts that mission and risks irreparable harm to our nation's natural heritage, wildlife, and native plants. Below are some examples of Nevada's wildlife that could be impacted by the proposed rule change:

Small Mammals- Species such as the pygmy rabbit, sagebrush vole, and various kangaroo mice rely on intact, contiguous habitat patches. Fragmentation, disturbance, and noise can render these isolated habitats unsuitable, restricting genetic exchange and reducing population resilience, often without causing direct mortality.

Lahontan Cutthroat Trout (LCT)- LCT populations are heavily dependent on high-quality stream habitats. Activities that increase sedimentation, alter hydrology, or reduce riparian cover impair habitat suitability. While such changes may not result in observable "take," they can cause long-term population declines.

Springs and Groundwater Resources- Many wildlife species in Nevada rely on limited and isolated springs and aquifers. Depletion, contamination, or diversion of these water sources can cause widespread ecological impacts without necessarily meeting a narrow definition of "take."

Spring Dependent Species- Species dependent on stable spring discharge are highly sensitive to even modest hydrologic changes. Disruptions can alter the temperature, chemistry, or flow of spring ecosystems, with cascading impacts on resident aquatic species. The endangered Devil's Hole pupfish is an example of a species' survival that depends on the presence of a delicate algal layer, which is threatened by groundwater pumping. Such actions, while not directly injurious, can devastate the species' food base and microhabitat.

Sagebrush Obligate Species- Species such as the greater sage-grouse rely on large, intact sagebrush ecosystems. Development projects, including renewable energy and mineral extraction, may degrade or fragment habitat. Indirect effects such as noise disturbance can impair mating behavior, reduce reproductive success, and result in population declines.

Pollinators- Species including the western bumblebee, monarch butterfly, and Suckley's cuckoo bumblebee are increasingly threatened by habitat loss, pesticides, and declines in floral resources. These impacts, though often indirect, significantly affect species viability and ecosystem function.

Desert Tortoise- Populations of the threatened desert tortoise are declining significantly with habitat degradation and fragmentation being major factors in this decline. Infrastructure and energy development contribute to habitat fragmentation, increased human access, and vegetation loss. These impacts reduce tortoise movement and reproduction, affecting population viability without always resulting in direct mortality.

The proposed rescission of the regulatory definition of "harm" under the ESA represents a troubling step backward for wildlife conservation. By removing a clear and science-based standard that includes significant habitat modification as a form of harm, this change weakens protections for imperiled species that rely on intact ecosystems for survival. Habitat degradation is one of the leading causes of species decline, and eliminating this definition undermines decades of legal precedent and conservation progress. Rather than narrowing the scope of protections, federal policy should reinforce the ESA's foundational goal, to prevent extinction and recover species in their natural environments.

Conservation Affairs Committee,

The Nevada Chapter of the Wildlife Society