


MONTANA NATIVE
PLANT SOCIETY
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Public Comments Processing
Attn: FWS–HQ-ES-2025-0034
U.S. Fish and Wildlife Service
MS: PRB/3W
5275 Leesburg Pike
Falls Church, VA 22041–3803

We are writing on behalf of the 1,000 members of the Montana Native Plant Society (MNPS). We are an organization dedicated to preserving, conserving and studying the flora of Montana and educating the public on the values of the native flora and its habitats. We are writing to comment on the proposal to rescind the regulatory definition of “harm” in the Endangered Species Act (ESA) regulations. The existing definition of “harm” includes habitat modification or destruction. Thank you for considering our comments.

Habitat destruction is the primary cause of species extinction, underpinning the importance of the current federal definition of harm in ESA regulations. Biological diversity benefits humans in foods, pollination, medicines, and science and requires genetic diversity within populations as well as species diversity of animals, fishes, and plants. Harm should include direct taking and should also continue to include indirect harm.

Inclusion of harm is an essential component to animal, fish and plant conservation under the Endangered Species Act. It is the foundation of success for species restored and for those on a path of recovery with ESA protection. Harm includes the consideration of the habitat required to support the persistence of a rare species. This terminology builds into Section 7 of ESA which provides consultation and assessment of proposed actions on a federally listed species. Providing critical habitat helps to ensure that the genetic diversity of a species is maintained, provides intact biological diversity, and is reflected in ecosystem services.

As an example, in Montana, “*Spiranthes diluvialis*,” Ute Ladies Tresses is one of two plant species listed as threatened under ESA. This orchid species is dependent upon a symbiotic soil mycorrhizae (fungal) association which is phylogenetically distinct to the sites where the orchid persists. In addition, this orchid occurs only in wet meadow habitat usually along streams which are seasonally flooded and soils remain stable and moist during the summer growing season. Habitat loss and modification are the primary threats to the species. Small population sizes and low reproduction rates also factor into the vulnerability of the rare orchid for extinction. Pollinators which are associated with the orchid are not clearly understood. If the streams are degraded with pollution or decreased flow, the meadows will dry up and populations will decline. Those actions cause a decline in the numbers of

plants without directly damaging individual plants. Projects on sites adjacent to listed species which impart hydrological changes may also harm listed wetland species. This is indirect taking. Clearly the persistence of Ute Ladies Tresses is dependent upon suitable intact habitat. Taking, as defined in ESA cannot protect species without the inclusion of “harm” which includes the very basic consideration of habitats that species require to persist.

Silene spaldingii is Montana's other threatened species under the ESA. It is found in intermontane prairie grasslands. Aggressive, exotic species are considered the biggest threat to this plant. Disturbance to adjacent grasslands caused by off-road vehicles can facilitate weed encroachment. Again, this is an example of indirect taking tied to habitat degradation.

Adjacent, intact habitat can be very important for maintaining healthy populations of pollinators vital to the reproduction and continued existence of a federally listed species. If you destroy or modify that habitat, then you are essentially harming or taking that listed species. The harm may not be immediate or direct, but the harm has taken place. To remove indirect harm/take as part of the definition of take is an overly narrow definition that is counter to the scientific knowledge of what is often needed to maintain a species' viability.

For the continued existence of these Montana plant species and so many other plants, animals and fishes, we request that you maintain the existing regulatory definition of “harm” in the Endangered Species Act (ESA) regulations.

Sincerely,

Lynda Saul, Conservation Chair

Robert Pal, President