

FLOOR STATEMENT OF U.S. SENATOR BENJAMIN L. CARDIN
“OPPOSITION TO SENATE AMENDMENT No. 599 to H.R. 1105”

Thursday, March 5, 2009

Mr. CARDIN. Mr. President, I take the floor today in defense of one of our most successful environmental statutes. Since its nearly unanimous passage in 1973, the Endangered Species Act (ESA) has protected nearly 2,000 species from extinction and contributed significantly to the economic benefit of this nation.

According to a Study of 2006 Fish and Wildlife Service survey, wildlife-related recreation – meaning hunting, fishing and wildlife watching – generated more than \$122 billion in revenues in 2006. So this statute has protected wildlife diversity and has protected our economy. In my home state of Maryland, wildlife watching generated over \$1 billion in revenue and sustained over 10,000 jobs.

Now, Mr. President, In December 2008, the Bush administration finalized two rules that undercut the success of the Endangered Species Act. Now that’s in December of 2008 after the elections, after Senator Obama was elected President of the United States, the Bush Administration issued two regulations in an effort to undermine the Endangered Species Act. One rule undermines important safeguards for all threatened and endangered species and the other withholds key protections from the polar bear.

I believe it is critical that the safeguards that have worked to protect endangered species for decades be reinstated. Section 429 of the Fiscal Year 2009 Omnibus Appropriations Act would give the Secretaries of Interior and Commerce the authority to do just that. It allows the

Secretaries to reverse the Bush administration's midnight regulations and reinstate the previous regulations.

To understand why this is needed, I think it's helpful to understand how devastating the rule changes are. So I want to say a bit more about the two rules that were put in place.

For decades, under Section 7 of the Endangered Species Act, federal agencies have consulted with scientists at the Fish and Wildlife Service or National Marine Fisheries Service (the Services) to make sure that an agency's planned actions do not jeopardize a threatened or endangered species.

In a new rule, the Bush administration finalized a rule that eliminated the critical role scientists play in the Section 7 system of checks and balances.

What the Bush regulation did was to allow the federal agency to avoid consultation with the scientists in making its determination as to whether there was an impact on an endangered species. Professional scientific organizations said this is not acceptable. An agency does not have the capacity to make a determination as to whether a species is endangered by the agency. They don't have the budget or expertise. They have a different mission. So the impact of this regulation could have a devastating impact on the protection of wildlife.

Now, some of my colleagues argue that requiring consultation with independent scientists will slow infrastructure projects funded through the recently passed American Recovery and Reinvestment Act. Let me remind my colleagues that the projects that are ready to go have already gone through this environmental review. They're ready to go. They won't be delayed as a result of Section 7 of the Endangered Species Act. We're ready to proceed. As President Obama said smart policies can preserve the environment.

And there was one regulation specifically aimed towards the polar bear. The new rule granted no new protections to the polar bear.

This special rule not only denied additional protections provided under the Endangered Species Act, but set a bad precedent a weakening safeguard. The new rule does not require plans to monitor, minimize, and mitigate impacts that could harm the bears. The rule does not allow scientists and agencies to even consider climate change as a factor that could injure polar bears.

Mr. President, last year I had the opportunity, along with members of the environment and public work committee, to visit Greenland. We saw firsthand what is happening in regards to the loss of the snowcaps and the impact that is having on the polar bear population. Global climate change is clear affecting the future stability of polar bears, and the regulation that was issued in December compromises that.

It's quite clear why 63 editorials from newspapers in 32 states opposed the Bush Administration's efforts. Dozens of wildlife, scientific, and environmental organizations opposed the changes. In addition, eight state attorneys general, including the Attorney General of Maryland, have filed suit to have the regulations withdrawn.

So, we have an amendment that's been offered. The amendment would take out of the omnibus bill the additional authority that we want to give to the agencies so that they can reverse the midnight changes attempted by the Bush administration. I would urge my colleagues to reject that amendment. Let's not compromise the protections that we have in the Endangered Species Act that allows federal agencies to have the best information before they take action on their projects. It is what we should be doing. It does preserve the diversity of wildlife in this nation. It maintains the United States in the leadership on these types of issues. It's the right policy.

We should go through regular order when we change it. The Bush administration did not do that. They did this a last minute gesture. Let's restore the status quo and let us look at the normal regulation process for modifications that may be needed. I would urge my colleagues to reject the amendment offered that would undermine the Endangered Species Act.

And with that, Mr. President, I would yield the floor.