H. R. _____

To amend the Endangered Species Act of 1973 to restrict the Secretary’s ability to alter permits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Cheney introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend the Endangered Species Act of 1973 to restrict the Secretary’s ability to alter permits, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Increasing Access and
5 Multiple Use Act of 2019”.

(Original Signature of Member)
SEC. 2. PERMIT CERTAINTY.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end the following:

“SEC. 19. PERMIT CHANGES.

“(a) IN GENERAL.—If the holder of a permit issued under this Act for other than scientific purposes is in compliance with the terms and conditions of the permit, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subsections (b) and (c) to meet circumstances that have changed subsequent to the issuance of the permit.

“(b) CHANGED CIRCUMSTANCES IDENTIFIED IN PERMIT.—For any circumstance identified in a permit under this Act that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

“(c) CHANGED CIRCUMSTANCES NOT IDENTIFIED IN PERMIT.—For any changed circumstance not identified in a permit under this Act, the Secretary may, in the absence of consent of the permit holder, require only such addi-
tional minimization, mitigation, or other measures to ad-
dress such changed circumstance that do not involve the
commitment of any additional land, water, or financial
compensation not otherwise committed, or the imposition
of additional restrictions on the use of any land, water
or other natural resources otherwise available for develop-
ment or use, under the original terms and conditions of
the permit or incorporated document.

“(d) BURDEN OF PROOF.—The Secretary shall have
the burden of proof in demonstrating and documenting,
with the best available scientific data, the occurrence of
any changed circumstances for purposes of this section.”.

SEC. 3. NO NET LOSS.

A critical habitat designation or listing of a species
1531 et seq.) shall not result in a net loss of acreage, per-
mits, or leases within grazing allotments or other multiple
use activities.

SEC. 4. PRESENCE OF A SPECIES.

The presence of critical habitat or a species listed
under the Endangered Species Act shall not the result in
the denial of any Federal permit, lease, or expansion of
multiple use activities based on the presence of the species
or habitat.
SEC. 5. CONSULTATION REQUIREMENT.

The Secretary may not designate lands as critical habitat unless, before such designation, the Secretary—

(1) consults with each community, county, municipality, city, town, or township with boundaries within or adjacent to lands affected by such designation; and

(2) obtains the concurrence for the designation from—

(A) the governing body of each entity described in paragraph (1); and

(B) the wildlife management and land management authorities and governor of each State in which all or part of the new or expanded critical habitat would be located.

SEC. 6. RECREATIONAL FISHING AND HUNTING HERITAGE OPPORTUNITIES ACT.

(a) DEFINITIONS.—In this section:

(1) FEDERAL PUBLIC LAND.—The term “Federal public land” means any land or water that is owned and managed by the Bureau of Land Management or the Forest Service.

(2) FEDERAL PUBLIC LAND MANAGEMENT OFFICIALS.—The term “Federal public land management officials” means—
(A) the Secretary of the Interior and the Director of the Bureau of Land Management regarding Bureau of Land Management lands and waters; and

(B) the Secretary of Agriculture and the Chief of the Forest Service regarding the National Forest System.

(3) HUNTING.—

(A) IN GENERAL.—Except as provided in clause (ii), the term “hunting” means use of a firearm, bow, or other authorized means in the lawful—

(i) pursuit, shooting, capture, collection, trapping, or killing of wildlife;

(ii) attempt to pursue, shoot, capture, collect, trap, or kill wildlife; or

(iii) the training of hunting dogs, including field trials.

(B) EXCLUSION.—The term “hunting” does not include the use of skilled volunteers to cull excess animals (as defined by other Federal law).

(4) RECREATIONAL FISHING.—The term “recreational fishing” means the lawful—
(A) pursuit, capture, collection, or killing
of fish; or
(B) attempt to capture, collect, or kill fish.

(5) RECREATIONAL SHOOTING.—The term
“recreational shooting” means any form of sport,
training, competition, or pastime, whether formal or
informal, that involves the discharge of a rifle, hand-
gun, or shotgun, or the use of a bow and arrow.

(b) RECREATIONAL FISHING, HUNTING, AND SHOOT-
ing.—

(1) IN GENERAL.—Subject to valid existing
rights and paragraph (7), and cooperation with the
respective State fish and wildlife agency, Federal
public land management officials shall exercise au-
thority under existing law, including provisions re-
garding land use planning, to facilitate use of and
access to Federal public lands, including National
Monuments, Wilderness Areas, Wilderness Study
Areas, and lands administratively classified as wil-
erness eligible or suitable and primitive or semi-
primitive areas, for recreational fishing, hunting,
and shooting, except as limited by—

(A) statutory authority that authorizes ac-
tion or withholding action for reasons of na-
tional security, public safety, or resource con-
servation;

(B) any other Federal statute that specifi-
cally precludes recreational fishing, hunting, or
shooting on specific Federal public lands,
waters, or units thereof; or

(C) discretionary limitations on rec-
reational fishing, hunting, and shooting deter-
mined to be necessary and reasonable as sup-
ported by the best scientific evidence and ad-
vanced through a transparent public process.

(2) MANAGEMENT.—Consistent with paragraph
(1), the head of each Federal public land manage-
ment agency shall exercise its land management dis-
cretion—

(A) in a manner that supports and facili-
tates recreational fishing, hunting, and shooting
opportunities;

(B) to the extent authorized under applica-
ble State law; and

(C) in accordance with applicable Federal
law.

(3) PLANNING.—

(A) Evaluation of effects on oppor-
tunities to engage in recreational fish-
ING, HUNTING, OR SHOOTING.—Federal public land planning documents, including land resources management plans, resource management plans, and comprehensive conservation plans, shall include a specific evaluation of the effects of such plans on opportunities to engage in recreational fishing, hunting, or shooting.

(B) NO MAJOR FEDERAL ACTION.—No action taken under this title, or under section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), either individually or cumulatively with other actions involving Federal public lands or lands managed by the United States Fish and Wildlife Service, shall be considered under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to be a major Federal action significantly affecting the quality of the human environment, and no additional identification, analysis, or consideration of environmental effects, including cumulative effects, is necessary or required with respect to such an action.

(C) OTHER ACTIVITY NOT CONSIDERED.—Federal public land management officials are not required to consider the existence or avail-
ability of recreational fishing, hunting, or shooting opportunities on adjacent or nearby public or private lands in the planning for or determination of which Federal public lands are open for these activities or in the setting of levels of use for these activities on Federal public lands, unless the combination or coordination of such opportunities would enhance the recreational fishing, hunting, or shooting opportunities available to the public.

(4) FEDERAL PUBLIC LANDS.—

(A) LANDS OPEN.—Notwithstanding any other law, lands under the jurisdiction of the Bureau of Land Management or the Forest Service, including Wilderness Areas, Wilderness Study Areas, lands designated as wilderness or administratively classified as wilderness eligible or suitable and primitive or semi-primitive areas and National Monuments, but excluding lands on the Outer Continental Shelf, shall be open to recreational fishing, hunting, and shooting unless the managing Federal agency acts to close lands to such activity. Lands may be made subject to closure to or restriction on recreational fishing, hunting, or shooting if determined by
the head of the agency concerned to be necessary and reasonable and supported by facts and evidence, for purposes including resource conservation, public safety, energy or mineral production, energy generation or transmission infrastructure, water supply facilities, protection of other permittees, protection of private property rights or interest, national security, or compliance with other law.

(B) SHOOTING RANGES.—

(i) IN GENERAL.—The head of each Federal agency shall use his or her authorities in a manner consistent with this title and other applicable law, to—

(I) lease or permit use of lands under the jurisdiction of the agency for shooting ranges; and

(II) designate specific lands under the jurisdiction of the agency for recreational shooting activities.

(ii) LIMITATION ON LIABILITY.—Any designation under clause (i)(II) shall not subject the United States to any civil action or claim for monetary damages for injury or loss of property or personal injury.
or death caused by any activity occurring
at or on such designated lands.

(5) Necessity in wilderness areas and
“within and supplemental to” wilderness
purposes.—

(A) Minimum requirements for admin-
istration.—The provision of opportunities for
recreational fishing, hunting, and shooting and
the conservation of fish and wildlife to provide
sustainable use recreational opportunities on
designated Federal wilderness areas shall con-
stitute measures necessary to meet the min-
imum requirements for the administration of
the wilderness area, provided that this deter-
mination shall not authorize or facilitate com-
modity development, use, or extraction, motor-
ized recreational access or use that is not other-
wise allowed under the Wilderness Act (16
U.S.C. 1131 et seq.), or permanent road con-
struction or maintenance within designated wil-
derness areas.

(B) Application of wilderness act.—
1131 et seq.), stipulating that wilderness pur-
poses are “within and supplemental to” the
purposes of the underlying Federal land unit are reaffirmed. When seeking to carry out fish and wildlife conservation programs and projects or provide fish and wildlife dependent recreation opportunities on designated wilderness areas, the head of each Federal agency shall implement these supplemental purposes so as to facilitate, enhance, or both, but not to impede the underlying Federal land purposes when seeking to carry out fish and wildlife conservation programs and projects or provide fish and wildlife dependent recreation opportunities in designated wilderness areas, provided that such implementation shall not authorize or facilitate commodity development, use or extraction, or permanent road construction or use within designated wilderness areas.

(6) REPORT.—Beginning on the second October 1 after the date of the enactment of this Act and biennially on October 1 thereafter, the head of each Federal agency who has authority to manage Federal public land on which recreational fishing, hunting, or shooting occurs shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Nat-
ural Resources of the Senate a report that describes—

(A) any Federal public land administered by the agency head that was closed to recreational fishing, hunting, or shooting at any time during the preceding year; and

(B) the reason for the closure.

(7) CLOSURES OR SIGNIFICANT RESTRICTIONS OF 640 OR MORE ACRES.—

(A) IN GENERAL.—Other than closures established or prescribed by land planning actions referred to in paragraph (4) or emergency closures described in subparagraph (C), a permanent or temporary withdrawal, change of classification, or change of management status of Federal public land that effectively closes or significantly restricts 640 or more contiguous acres of Federal public land to access or use for recreational fishing or hunting or activities related to recreational fishing or hunting, or both, shall take effect only if, before the date of withdrawal or change, the head of the Federal agency that has jurisdiction over the Federal public land—
(i) publishes appropriate notice of the withdrawal or change, respectively;

(ii) demonstrates that coordination has occurred with a State fish and wildlife agency; and

(iii) submits to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate written notice of the withdrawal or change, respectively.

(B) AGGREGATE OR CUMULATIVE EFFECTS.—If the aggregate or cumulative effect of separate withdrawals or changes effectively closes or significantly restricts 1,280 or more acres of land or water, such withdrawals and changes shall be treated as a single withdrawal or change for purposes of subparagraph (A).

(C) EMERGENCY CLOSURES.—Nothing in this title prohibits a Federal land management agency from establishing or implementing emergency closures or restrictions of the smallest practicable area to provide for public safety, resource conservation, national security, or other purposes authorized by law. Such an emergency
closure shall terminate after a reasonable period
of time unless converted to a permanent closure
consistent with this section.

(8) NATIONAL PARK SERVICE UNITS NOT AF-
FECTED.—Nothing in this title shall affect or modify
management or use of units of the National Park
System.

(9) NO PRIORITY.—Nothing in this title re-
quires a Federal land management agency to give
preference to recreational fishing, hunting, or shoot-
ing over other uses of Federal public land or over
land or water management priorities established by
Federal law.

(10) CONSULTATION WITH COUNCILS.—In ful-
filling the duties set forth in this section, the heads
of Federal agencies shall consult with respective ad-
visory councils as established in Executive Order
Nos. 12962 and 13443.

(11) AUTHORITY OF THE STATES.—

(A) IN GENERAL.—Nothing in this title
shall be construed as interfering with, dimin-
ishing, or conflicting with the authority, juris-
diction, or responsibility of any State to exercise
primary management, control, or regulation of
fish and wildlife under State law (including reg-
ulations) on land or water within the State, including on Federal public land.

(B) FEDERAL LICENSES.—Nothing in this title shall be construed to authorize the head of a Federal agency to require a license, fee, or permit to fish, hunt, or trap on land or water in a State, including on Federal public land in the States, except that this paragraph shall not affect the Migratory Bird Stamp requirement set forth in the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718 et seq.).

c) VOLUNTEER HUNTERS; REPORTS; CLOSURES AND RESTRICTIONS.—

(1) DEFINITIONS.—For the purposes of this subsection:

(A) PUBLIC LAND.—The term “public land” means—

(i) units of the National Park System;

(ii) National Forest System lands;

and

(iii) land and interests in land owned by the United States and under the administrative jurisdiction of—
(I) the United States Fish and Wildlife Service; or

(II) the Bureau of Land Management.

(B) SECRETARY.—The term “Secretary” means—

(i) the Secretary of the Interior and includes the Director of the National Park Service, with regard to units of the National Park System;

(ii) the Secretary of the Interior and includes the Director of the United States Fish and Wildlife Service, with regard to United States Fish and Wildlife Service lands and waters;

(iii) the Secretary of the Interior and includes the Director of the Bureau of Land Management, with regard to Bureau of Land Management lands and waters; and

(iv) the Secretary of Agriculture and includes the Chief of the Forest Service, with regard to National Forest System lands.
(C) Volunteer from the Hunting Community.—The term “volunteer from the hunting community” means a volunteer who holds a valid hunting license issued by a State.

(2) Volunteer Hunters.—When planning wildlife management involving reducing the size of a wildlife population on public land, the Secretary shall consider the use of and may use volunteers from the hunting community as agents to assist in carrying out wildlife management on public land. The Secretary shall not reject the use of volunteers from the hunting community as agents without the concurrence of the appropriate State wildlife management authorities.

(3) Report.—Beginning on the second October 1 after the date of the enactment of this Act and biennially on October 1 thereafter, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) any public land administered by the Secretary that was closed to fishing, hunting, and recreational shooting at any time during the preceding year; and
(B) the reason for the closure.

(4) Closures or significant restrictions.—

(A) IN GENERAL.—Other than closures established or prescribed by land planning actions referred to in subparagraph (B), a permanent or temporary withdrawal, change of classification, or change of management status of public land that effectively closes or significantly restricts any acreage of public land to access or use for fishing, hunting, recreational shooting, or activities related to fishing, hunting, or recreational shooting, or a combination of those activities, shall take effect only if, before the date of withdrawal or change, the Secretary—

(i) publishes appropriate notice of the withdrawal or change, respectively;

(ii) demonstrates that coordination has occurred with a State fish and wildlife agency; and

(iii) submits to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate writ-
ten notice of the withdrawal or change, re-
respectively.

(B) EMERGENCY CLOSURES.—Nothing in
this section prohibits the Secretary from estab-
lishing or implementing emergency closures or
restrictions of the smallest practicable area to
provide for public safety, resource conservation,
national security, or other purposes authorized
by law. Such an emergency closure shall termi-
nate after a reasonable period of time unless
converted to a permanent closure consistent
with this section.

SEC. 7. HUNTING AND RECREATIONAL FISHING WITHIN
THE NATIONAL FOREST SYSTEM AND NA-
TIONAL WILDLIFE REFUGE SYSTEM.

The Secretary concerned may not establish policies,
directives, or regulations that restrict the type, season, or
method of hunting or recreational fishing on lands within
the National Forest System or National Wildlife Refuge
System that are otherwise open to those activities.

SEC. 8. ROADS AND TRAILS WITHIN THE NATIONAL FOREST
SYSTEM AND NATIONAL WILDLIFE REFUGE
SYSTEM.

The Secretary concerned may not establish policies,
directives, or regulations that restrict public access to pub-
lic lands, including any change in access to claims, leases, or access using motorized vehicles or nonmotorized means resulting from—

(1) the decommissioning in whole or in part of a road, trail, or combination road and trail system;

(2) a change in the status of a road as open or closed; or

(3) a change in road densities.

SEC. 9. VACANT GRAZING ALLOTMENTS MADE AVAILABLE TO CERTAIN GRAZING PERMIT HOLDERS.

(a) IN GENERAL.—The Secretary concerned shall, to the maximum extent practicable, make vacant grazing allotments available to a holder of a grazing permit or lease issued by such Secretary if the lands covered by the permit or lease are unusable because of a natural disaster (including a drought or wildfire), court-issued injunction, or conflict with wildlife, as determined by the Secretary concerned.

(b) TERMS AND CONDITIONS.—The terms and conditions contained in a permit or lease for a vacant grazing allotment made available pursuant to subsection (a) shall be the terms and conditions of the most recent permit or lease that was applicable to such allotment.

(c) COURT-ISSUED INJUNCTIONS.—A court may not issue any order enjoining the use of any allotment for
which a permit or lease has been issued by the Secretary concerned and continues in effect unless the Secretary concerned can make a vacant grazing allotment available to the holder of such permit or lease.

(d) **ENVIRONMENTAL ASSESSMENT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT.**—Activities carried out by the Secretary concerned pursuant to subsection (a) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

**SEC. 10. CERTAIN ACTIONS DEEMED IN COMPLIANCE.**

(a) **ACTIONS DEEMED IN COMPLIANCE.**—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).
(b) **TERMINATION DATE.**—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(e) **LIMITATION ON APPLICATION.**—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

SEC. 11. REIMBURSEMENT FOR DEPREDATION OF LIVE- STOCK BY REINTRODUCED SPECIES.

(a) **IN GENERAL.**—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and includes or derives from members of the species that were reintroduced into the wild.

(b) **LIMITATION ON REQUIREMENT TO PRESENT BODY.**—The Secretary may not require the owner of live-
stock to present the body of individual livestock as a condition of payment of reimbursement under this section.

(c) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

SEC. 12. DEFINITIONS.

In this Act:

(1) The term “Secretary” means the Secretary of the Interior.

(2) The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to National Forest System Lands; and

(B) the Secretary of the Interior, with respect to public land.