



March 21, 2025

The Honorable Bruce Westerman, Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Jared Huffman, Ranking Member
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Harriet Hageman, Chairwoman
Water, Wildlife, and Fisheries Subcommittee
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Val Hoyle, Ranking Member
Water, Wildlife, and Fisheries Subcommittee
1324 Longworth House Office Building
Washington, D.C. 20515

RE: H.R. 1897 – The Endangered Species Act Amendments Act of 2025

Dear Chairman Westerman, Ranking Member Huffman, Chairwoman Hageman, and Ranking Member Hoyle,

The Pacific Northwest is known for its natural landscapes and iconic species like salmon and orcas. Ports and marinas in the region pride themselves on being good waterfront stewards of the environment. The Port of Kingston is committed to improving the environment while preserving and improving our facilities to better serve the public. Our organization has undertaken numerous environmental improvement projects and programs including dredging, improving moorage quality, boat ramps, and stormwater quality, and access to our waters for the public. We take our mission of providing economic development, trade, recreation, and jobs for our community seriously along with ensuring environmental stewardship so our navigation infrastructure can coexist with species and their critical habitat. We support the goal of the Endangered Species Act (ESA) to prevent extinction of species, and the negative effects extinction has on ecosystems that also support human life.

We understand the Committee is considering H.R. 1897, The Endangered Species Act Amendments Act of 2025, and appreciate the opportunity to provide our support for the legislation as well as our comments and concerns related to ESA Section 7 consultation for maintenance and other project permitting.

Beginning in 2018, the West Coast Region Office of NOAA Fisheries began applying a different definition of environmental baseline than what was commonly understood from previous practice under Endangered Species Act (ESA) Section 7 consultation for maintenance and building permits. Rather than considering the existing structure and its effects as part of the existing baseline condition, the NOAA Fisheries West Coast Region Office definition of environmental baseline no longer included the existing structure for the effects analysis. As a result, in addition to mitigating for the maintenance or building action, applicants were also expected to mitigate for the effects of the existing structure's continued existence on species and habitat for decades into the future. This essentially required all port and marina maintenance projects to undergo lengthy (multiyear) formal consultation for even the most basic maintenance work and the effects calculation dramatically increased the costs of maintenance and other projects.



For example, we are replacing very old dock sections (that have creosote dock sections and plastic and Styrofoam flotation) that are polluting our waters with modern, clean dock sections that meet the new, extremely rigorous (and costly) standards from federal, state, and county regulatory agencies such as Army Corps, US Fish & Wildlife, NMFS, WA State Department of Ecology, WA State Department of Natural Resources, and WA State Department of Fish and Wildlife. In short, we need to replace the whole (nearly 60-year-old) marina including our breakwater, seawall, fishing pier, boat ramps, replace the marina docks and pilings, upgrade all infrastructure including electrical, fire suppression, sewer and water, and dredge the whole marina and federally navigational channel. Also, we have tried to install temporary, seasonal, upgraded dock sections inside the marina, to increase dock capacity to meet demand and help improve our financial performance.

Nothing is more frustrating than when ports and marinas have maintenance projects that will repair and strengthen infrastructure while making water quality and habitat improvements like removing creosote and other toxic materials, replacing overwater structures with light penetrating decking but then cannot get through the permitting process as a result of the increased mitigation costs and construction delays.

We have been prevented from implementing nearly every project.

When we completed a dredging project in 2017, we were required to pay about \$100,000 in environmental mitigation that was prescribed by the Army Corps and State Department of Ecology in consultation with the local tribes. This mitigation failed through no fault of the port. Also, the Port of Kingston was required to perform this mitigation, even though federal law explicitly states that mitigation is not required for navigational channels. These agencies are requiring another \$100,000 of mitigation.

A second project we were trying to add 200 lineal feet of docks inside the maria (which has already been mitigated for when it was built). The cost was about \$100,000 and we received some grant funding from Washington State to help with the cost. All the federal and state services (ACE, USFW, WDFW, County) allowed this work without a permit or mitigation – until we were told to consult with NMFS (as a result of their new policy regarding mitigation using the Nearshore Calculator). The mitigation as a result of using their new calculator was an additional \$280,000. We were forced to return the grant funding to the state and cancelled the project. I can provide many more examples. You have the idea.

Our organization supports H.R. 1897, The Endangered Species Act Amendments Act of 2025, as it will restore the commonly understood definition of environmental baseline for the purposes of ESA Section 7 consultations for maintenance and building permits. It will ensure consistent application of the environmental baseline nationwide. It will also ensure that organizations like ours pay reasonable mitigation for proposed maintenance and building actions. For ports and marinas to remain competitive, maintain safe operations, and avoid negative environmental impacts from decaying structures, our infrastructure must be maintained. This legislation will assist in providing a consistent, predictable, and cost-effective permitting process. We appreciate the Committee's consideration of this legislation to address our concerns and urge passage of HR 1897 as swiftly as possible.



Respectfully submitted,

Greg Englin
Executive Director
(on behalf of the Port of Kingston Commission)

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