

## **REVOKING A STRONGER ENDANGERED SPECIES HABITAT REGULATION**

Passed: 51-49

### **SUMMARY:**

The Senate passed a resolution that would have revoked a joint National Marine Fisheries Service and U.S. Fish and Wildlife Service revised definition of “habitat” under the Endangered Species Act. (*May 11, 2023, Roll Call No. 122*).

### **BACKGROUND:**

On June 24, 2022, the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS) issued a joint rule to revise the Endangered Species Act’s definition of “habitat” under the Endangered Species Act. The rule reversed a weaker definition of habitat developed under the Trump Administration.

In the 118<sup>th</sup> Congress, the House and Senate began, for the first time, using the Congressional Review Act (CRA) to revoke new federal agency regulations affording essential protections to imperiled wildlife under the Endangered Species Act. CRA resolutions signed into law also block agencies from issuing substantially similar rules in the future, thereby increasing the risk of extinction for species impacted by this form of legislative action. Under the CRA, Senator Cynthia Lummis (R-Wyo.) introduced S. J. Res. 23 to revoke FWS’s recently issued rule on ESA habitat. The joint resolution would limit NMFS and FWS’s ability to conserve and recover threatened and endangered species under the ESA. The ability to designate critical habitat is essential to avoid the degradation and destruction of habitat needed for threatened and endangered species to survive and recover.

### **OUTCOME:**

On May 11, 2023, the U.S. Senate passed S.J. Res. 23, 51-49. “Nay” was the pro-conservation vote. The House passed the resolution on July 27, 2022, and President Biden vetoed it on September 28, 2023.