The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, N.W.
Washington, D.C. 20240

Daniel M. Ashe
Director
U.S. Fish & Wildlife Service
1849 C Street, N.W. - Mail Stop 3351
Washington, D.C. 20240

Re: Docket Number FWS-R1-ES-2011-0096
Proposed Designation of Critical Habitat for the Southern Selkirk Mountains Population of Woodland Caribou

Dear Director Ashe:

We are writing to you to express our deep concerns with the U.S. Fish and Wildlife Service’s (FWS) proposed rule designating more than 375,000 acres in northeast Washington and north Idaho, including more than 15,000 acres of private property as critical habitat for the southern Selkirk Mountains woodland caribou under the Endangered Species Act (ESA).

Despite data showing thriving populations of caribou in Canada, we are greatly concerned that the areas designated in Washington and Idaho have not been shown to be essential to the conservation of the caribou, and would significantly and adversely impact multi-use and economic activities of our constituents—including tens of thousands of acres of state managed forest areas that are managed for rural schools and counties. It is particularly concerning that FWS proposes this sweeping regulation nearly 18 years after the FWS adopted a recovery plan, and despite receiving multiple delisting petitions in the past—and with one currently pending. This appears to be another example, similar to the gray wolf, of the FWS’ poor ESA management, bowing to threat or agreeing to settle lawsuits that are imposing a sub-population of species that does not adhere to arbitrary geographical boundaries set by the FWS. Simply put, the FWS should go back to the drawing board on this rule.

In addition to our broad concerns, we have four specific concerns about the FWS proposed rule. First, the proposed rule is not based on the best available science as required by the ESA. Second, FWS has not sufficiently demonstrated that it is prudent to designate critical habitat. Third, the FWS has not adequately studied the impact this designation will have upon our local rural economies. And fourth, the FWS is pushing to finalize, with insufficient opportunity for public comment, an 87-page draft economic impact analysis that the FWS released for public review days ago. At a
minimum, this comment period should be extended at least another 60 days to allow sufficient time for public comment and perhaps additional public hearings in both Idaho and Washington.

I. The proposed rule is not based on the best available science as required by the ESA.

The ESA requires that a designation of critical habitat be based on the “best scientific data available.” Moreover, section 3 of ESA defines critical habitat as “specific areas within the geographical area occupied by the species,” at the time listed on which are found “those physical or biological features essential to the conservation of the species.” The proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou does not meet this criteria. Specifically, the proposed rule ignores important scientific data regarding the area occupied by woodland caribou at the time of listing, data regarding the quality of habitat for caribou within the proposed critical habitat, and data regarding the elevations at which woodland caribou reside. Moreover, the FWS is not justified to suggest that the proposed areas—some 375,000 acres in Washington and Idaho—are essential to the conservation of Selkirk caribou. We agree with concerns raised in a recently filed petition to delist that the FWS has not properly reviewed the population of the caribou in the broader perspective of the reindeer or caribou species to which the Selkirk population is associated with in Canada and other parts of the United States. This is becoming a troubling pattern with recent FWS policies that should not be continued here.

II. FWS has not demonstrated that it is prudent to designate critical habitat.

The proposed rule published in the Federal Register only addresses the first of two requirements in the designation of critical habitat. FWS states that “the designation of critical habitat for the southern Selkirk Mountains population of woodland caribou would not be expected to increase the degree of threat by poaching.” FWS then concludes that it “no longer find[s] designation of critical habitat to be “not prudent” under our regulations, and have determined that the designation is prudent.”

This conclusion is not in compliance with the regulations, because FWS must also prove that the designation of critical habitat would benefit the species. Until both these requirements are met, the conclusion that it is prudent to designate critical habitat cannot be supported.

III. The proposed rule does not take into consideration the impact to rural economies.

We understand that the FWS recently put forward an economic analysis that suggests the total economic impact to northeast Washington and north Idaho would be $1.5 million over twenty years. This grossly undercounts the impact the designation of critical habitat will have on communities and ignores the total cumulative impact that the designation would cost in addition to federal costs and impacts already imposed since the FWS listed the caribou in 1983. The study analyzes how the designation will affect the agency, but not how it impacts rural businesses. Our local economies are affected by the policies that federal land managers comply with, as well as constraints placed on private land owners. The snowmobile and OHV restrictions will have over-reaching impacts upon recreation in Washington, Idaho, and Montana. Imposing additional burdens will have intense negative consequences on these communities who are heavily reliant on the revenues generated from our natural resources and are already suffering from a declining tax base.
IV. The FWS is seeking to finalize the rule with woefully inadequate public review of a Massachusetts-based company’s draft economic analysis just released.

It is unfortunate that the FWS has repeatedly had to extend public comment on a rule it intended to finalize before it provided the public its draft economic impact analysis. Then, just days after it released the draft economic analysis, the FWS issued a Federal Register notice that provides 30 days for public review and comment. This is inadequate. The draft economic analysis, 87 pages in length, analyzes the impact of the proposed critical habitat designation on vital activities occurring on two national forests in two counties in two states. Such activities include timber harvests, fire suppression, transportation, mining and recreation. The broad scope of these activities and the impact to rural communities should not be relegated to a few weeks of public comment before the FWS finalizes it. We believe that at least 60 more days is needed, and to adequately review, assess and provide opportunity for public hearing and input on these findings.

In summary we would urge the FWS to take into consideration our concerns with this proposed critical habitat designation. It is not based upon sound science, the designation is not prudent or justified, and the impact on our rural economies would be much greater than has been suggested, and deserved more than the 30 days currently allowed for public review. With high unemployment, we cannot afford to impose additional unreasonable regulations, and particularly without adequate consideration or public comment on the impacts these regulations will have on them. While we believe that management of our wildlife is critical to preserving our natural resources, proper management should be done with sound science and with limited impact on our local economies. We request another 60 days for public comments and hearings on these significant proposals through September 30, 2012.

We would appreciate a prompt response at your earliest convenience to our letter.

Sincerely,

Raúl Labrador
Member of Congress

Doc Hastings
Member of Congress

Michael K. Simpson
Member of Congress

Cathy McMorris Rodgers
Member of Congress