

May 2025

Dear Member of Congress,

We are writing to express our deep concern about the provisions in the House reconciliation bill that would jeopardize the future of the critically endangered Rice's whale. Specifically, this bill aims to legislate that a 2020 Trump era document, "Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico" – previously struck down in court – is sufficient for protecting endangered species for all mandated oil and gas lease sales and subsequent development that will last 40-50 years into the future. Worse, the bill would further weaken the already inadequate protections in that invalidated Biological Opinion by striking some of the few mitigation measures it did require. With 50-100 Rice's whales remaining, this giveaway would line the pockets of oil and gas companies and give them a free pass to skip required environmental reviews and public accountability, all at the risk of causing the first extinction of a great whale species by humans in history.

Rice's whales, sometimes called America's whale, are found year-round, exclusively in Gulf waters. Unfortunately, oil and gas activities threaten this species' survival. 15 years ago, the BP Deepwater Horizon disaster caused death or serious harm to billions, if not trillions, of fish, sea turtles, whales, and other animals, including more than 100,000 individuals of species listed as threatened or endangered. Notably, the spill resulted in the loss of at least 20% of the Rice's whale population. Unfortunately, oil and gas companies failed to learn from this disaster and continue to press ahead with drilling in even deeper waters, making the chances of a catastrophic spill worse.

Oil spills, however, aren't the only oil and gas activities that threaten the species. Because the whales bask close to the surface, particularly at night when they come to the surface to rest, they are also especially at risk of ship strikes, including those from the large number of oil and gas vessels that routinely transit their habitat. Additionally, deafening underwater blasting from fossil fuel exploration's seismic air guns interferes with the sonar that the whales and other marine creatures use to communicate, care for their young, and find mates.

Even though oil and gas companies continue to prioritize profits over people and the planet, the survival and recovery of this iconic American whale is possible. In the four years since this endangered whale was identified as a unique species in 2021, scientific information about its habitat, food, and conservation needs has exploded. By following and implementing scientifically sound environmental reviews and regulations that can apply this expanding scientific knowledge to avoid or mitigate the harm from oil and gas activities, we can save this species from extinction. This bill, however, would prevent that entirely; instead locking in outdated science and weak mitigation measures that the courts have already found fall far short of the law.

Mandated by section 7 of the Endangered Species Act, a Biological Opinion (BiOp) is a critical tool used by the U.S. Fish and Wildlife Service and National Marine Fisheries Service to assess the impact of proposed actions to threatened and endangered species. Specifically, they assess whether a project will jeopardize the survival and recovery of listed species. If a project is found to cause jeopardy, the Services prescribe “reasonable and prudent alternatives,” which are mitigation measures that would avoid jeopardy while allowing the project to proceed.

The Trump Administration released a fundamentally flawed BiOp in 2020. In 2024, the U.S. District Court for the District of Maryland ruled that BiOp violated the Endangered Species Act in multiple respects, including its failure to account for the damage caused by BP’s Deepwater Horizon disaster, its failure to account for future oil spills in the Gulf, and its failure—after finding that oil and gas activities would likely cause the extinction of Rice’s whales—to prescribe mitigation that would prevent the whale’s extinction. The Service has since been working on a new BiOp to correct these many failings (due May 21). But this bill seeks to override the courts and the science, and preclude further judicial review, by deeming the illegal 2020 BiOp sufficient for all mandated lease sales and subsequent development. And, to add insult to injury, the bill erodes even the few protections contained in the 2020 BiOp, by striking specific sections outlining mitigation to reduce harm from seismic airgun surveys. Congress is in no position to micromanage the science, let alone to overrule measures that are necessary to protect the country’s most endangered whale.

This provision is a clear attack on science, judicial review, and endangered species, embedded in an even larger effort to sell off our public waters despite record U.S. oil production and profits. It also threatens numerous other listed species, like sea turtles and Gulf sturgeon that are impacted by offshore drilling. Rice’s whale and other endangered species cannot afford these carveouts. We must reject them, not only for the sake of species’ survival, but also to uphold our bedrock environmental laws, scientific integrity, and the critical role of judicial review. We strongly urge you to vote against this harmful bill that prioritizes marginal profit increases for the oil industry over the very existence of one of America’s most endangered species.

Sincerely,

Animal Welfare Institute
Bayou City Waterkeeper
Center for Biological Diversity
Cetacean Society International
Conservation Law Foundation
Defenders of Wildlife
Earthjustice Action
Endangered Habitats League
Endangered Species Coalition
Environmental Protection Information Center- EPIC

FOUR PAWS USA
Friends of the Earth
GreenLatinos
Healthy Gulf
Hip Hop Caucus
International Marine Mammal Project of Earth Island Institute
Natural Resources Defense Council
New Hampshire Audubon
Next 100 Coalition
NY4WHALES
Ocean Conservation Research
Oceana
Pipe Line Awareness Network for the Northeast (PLAN)
Prairie Hills Audubon Society of Western SD
Predator Defense
Resource Renewal Institute
Sierra Club
Species Unite
Surfrider Foundation
Sustainable Ocean Alliance
Turtle Island Restoration Network
Voice for Animals
Western Watersheds Project
Whale and Dolphin Conservation
WildEarth Guardians
Wildlife for All