

**H.R. 424, “GRAY WOLF STATE MANAGEMENT ACT OF 2017”; H.R. 717, “LISTING REFORM ACT”; H.R. 1274, “STATE, TRIBAL, AND LOCAL SPECIES TRANSPARENCY AND RECOVERY ACT”; H.R. 2603, “SAVING AMERICA’S ENDANGERED SPECIES ACT” OR “SAVES ACT”; AND H.R. 3131, “ENDANGERED SPECIES LITIGATION REASONABLENESS ACT”**

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## **LEGISLATIVE HEARING**

BEFORE THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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Wednesday, July 19, 2017

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**LEGISLATIVE HEARING ON H.R. 424, TO DIRECT THE SECRETARY OF THE INTERIOR TO REISSUE FINAL RULES RELATING TO LISTING OF THE GRAY WOLF IN THE WESTERN GREAT LAKES AND WYOMING UNDER THE ENDANGERED SPECIES ACT OF 1973, AND FOR OTHER PURPOSES, “GRAY WOLF STATE MANAGEMENT ACT OF 2017”; H.R. 717, TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO REQUIRE REVIEW OF THE ECONOMIC COST OF ADDING A SPECIES TO THE LIST OF ENDANGERED SPECIES OR THREATENED SPECIES, AND FOR OTHER PURPOSES, “LISTING REFORM ACT”; H.R. 1274, TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO REQUIRE MAKING AVAILABLE TO STATES AFFECTED BY DETERMINATIONS THAT SPECIES ARE ENDANGERED SPECIES OR THREATENED SPECIES ALL DATA THAT IS THE BASIS OF SUCH DETERMINATIONS, AND FOR OTHER PURPOSES, “STATE, TRIBAL, AND LOCAL SPECIES TRANSPARENCY AND RECOVERY ACT”; H.R. 2603, TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO PROVIDE THAT NONNATIVE SPECIES IN THE UNITED STATES SHALL NOT BE TREATED AS ENDANGERED SPECIES OR THREATENED SPECIES FOR PURPOSES OF THAT ACT, “SAVING AMERICA’S ENDANGERED SPECIES ACT,” OR “SAVES ACT”; AND H.R. 3131, TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO CONFORM CITIZEN SUITS UNDER THAT ACT WITH OTHER EXISTING LAW, AND FOR OTHER PURPOSES, “ENDANGERED SPECIES LITIGATION REASONABLENESS ACT”**

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**Wednesday, July 19, 2017  
U.S. House of Representatives  
Committee on Natural Resources  
Washington, DC**

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The Committee met, pursuant to notice, at 10:08 a.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Committee] presiding.

Present: Representatives Bishop, Gohmert, Lamborn, Wittman, Gosar, Tipton, LaMalfa, Radewagen, Bergman, Cheney, Johnson, Gianforte; Grijalva, Costa, Huffman, Lowenthal, Beyer, Hanabusa, Barragán, Soto, Clay, and Gomez.

Also present: Representative Polis.

The CHAIRMAN. The Committee on Natural Resources will come to order.

The Committee today is meeting to hear the testimony on several bills: H.R. 1274, State, Tribal, and Local Species Transparency and Recovery Act, offered by Mr. Newhouse—you have to get smaller titles than this; H.R. 424, the Gray Wolf State Management Act of 2017, by Collin Peterson; H.R. 717, Listing Reform Act, by Representative Olson; H.R. 2603, Saving America’s Endangered Species Act, by Mr. Gohmert; and H.R. 3131, Endangered Species Litigation Reasonableness Act, by Representative Huizenga.

Under Committee Rule 4(f), any opening oral statements are going to be limited to the Chair, the Ranking Member, Vice Chair, and a Vice Ranking Member. Therefore, I ask unanimous consent that other Members' statements be made part of the record if they are submitted to the Subcommittee Clerk by 5:00 p.m.

Hearing no objections, we will do that. And I will recognize myself first for a 5-minute opening statement.

**STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF UTAH**

The CHAIRMAN. Thanks to our witnesses for being here. The Endangered Species Act was passed 40 years ago to try to recover and restore imperiled species. And, despite the best of intentions, all too often this Act has changed, the mission has changed, and has been misused to try to control land, to block a host of economic activities, like jobs, energy and infrastructure, and forest management. It also has proliferated costly litigation, which is actually taking taxpayers' resources away from actual conservation.

In the past four Congresses, we have held over 50 hearings, with dozens of witnesses that have talked about the litigation costs, lack of transparent scientific data, consultation processes, both public and private, that is endless, failure to include states and stakeholders in the process, and also goalposts which simply keep moving, which promotes more petitions and more listings.

That is why simply 2 percent of all the species that have ever been listed have ever been recovered. In short, ESA does not work. We have to find a way to reform it so it actually solves problems, not just continues on the process.

Hopefully, working with our colleagues in the Senate and the Administration, we can lay a foundation for ESA reform that will do us well. That is why we are here today to talk about five bills, two of which were bipartisan, that will start the reform process, or at least lay a foundation for it.

So, first, H.R. 1274, introduced by Mr. Newhouse, fosters greater Federal and state cooperation and data transparency.

The second one we will talk about, H.R. 424 by Mr. Peterson—we welcome you here—is a bipartisan measure to ensure state management of gray wolves in the Western Great Lakes. This should be a model for success of the Endangered Species Act, but it has been hijacked by litigation to lose that concept. We need to restore it.

H.R. 717, the Listing Reform Act by Representative Olson would allow consideration of economic factors in listing decisions.

The fourth one, H.R. 2603, the SAVES Act by our colleague, Mr. Gohmert, will remove duplicative permitting requirements for non-native endangered species.

And finally, H.R. 3131 by Representative Huizenga will cap the ESA-related attorney's fees, allowing them to prevailing parties only, and it will be similar to what we already do for Social Security and veterans' cases.

We at this time want to say that we are looking forward to finding reforms as we move forward. I want our colleagues on that side of the dais to know we are reaching across the aisle to ask for your help and support, as long as the term "bedrock" is not used as an

adjective, but is only a noun for Fred Flintstone's hometown. Anything else for that word is total spin.

So, I want to thank our witnesses for being here today, and thank the sponsors for joining us here today. I look forward to your testimony and the hearing.

[The prepared statement of Mr. Bishop follows:]

PREPARED STATEMENT OF THE HON. ROB BISHOP, CHAIRMAN, COMMITTEE ON  
NATURAL RESOURCES

More than 40 years ago, the Endangered Species Act was enacted to protect and encourage recovery of imperiled species. Though passed with the best of intentions, the ESA has veered away from this mission. All too often, the Act has been misused to control land, block a host of economic activities important for jobs, our energy and resources infrastructure and forest management. It has proliferated costly litigation that drains taxpayer resources away from actual conservation efforts.

Over just the past four Congresses, this Committee has held more than 50 hearings examining the ESA. Dozens of witnesses have testified about litigation costs, the failure to use transparent scientific data, endless consultation processes, negative economic impacts, failure to include states and stakeholders in the process, unachievable goalposts to de-list healthy species and promoting more petitions and listings over recovery. The results speak volumes: less than 2 percent of more than 1,500 listed species have ever recovered.

It is my hope that, in coordination with our colleagues in the Senate and this Administration, we can lay the foundation for ESA reform that creates better outcomes for both species and communities. The five bills before us today—two of which are bipartisan, and two that previously passed the House in some form—would begin to lay this foundation.

First, H.R. 1274, introduced by Representative Newhouse, fosters greater Federal and state cooperation and data transparency in species designations.

Second, H.R. 424, introduced by Agriculture Committee Ranking Member Collin Peterson, is a bipartisan measure to de-list and ensure state management of gray wolves in the Western Great Lakes, maintain Wyoming management without further litigation, and provides a model for how recovered species should be managed under the ESA—by states that have proven capable of doing so.

Third, H.R. 717, the Listing Reform Act, sponsored by Representative Pete Olson, would allow for the consideration of economic factors in listing decisions. Countless witnesses have testified in prior hearings about the impacts ESA can have on economic activity and private property rights. The bill also provides agencies more flexibility in processing listing petitions to mitigate excessive litigation, allowing the agency to focus resources on actual species conservation.

Fourth, H.R. 2603, the "SAVES Act," sponsored by our colleague Representative Gohmert, which removes duplicative permitting requirements for non-native endangered species.

And finally, H.R. 3131, sponsored by Representative Huizenga, would cap ESA-related attorney's fees, allowing them only to prevailing parties, and bringing them into conformance with fee caps allowed for other types of citizen lawsuits against the government, such as Social Security and veterans. In recent years, ESA litigation has become a lucrative industry, draining resources away from conservation and placing taxpayer funds squarely in the pockets of environmental attorneys and special interest groups, often at rates of \$500 or more per hour.

We can improve outcomes for both species and taxpayers if we build consensus to address existing failures and pursue targeted, common-sense reforms. I extend my hand to Ranking Member Grijalva and my colleagues from both sides of the aisle as we move forward today, and in the coming months, in this long overdue reform effort.

I want to thank our witnesses and bill sponsors for being here today, and I look forward to hearing their testimony about these important measures.

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The CHAIRMAN. With that, I will turn to Mr. Grijalva for any opening statement that he may have.

**STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

Mr. GRIJALVA. Thank you, Mr. Chairman. The Endangered Species Act works, bedrock or not.

[Laughter.]

Mr. GRIJALVA. Despite years of Republican efforts to pass bills weakening the Act and cut funding from agencies that protect and recover imperiled American wildlife, 99 percent of listed species have continued to survive, and 90 percent are on schedule to meet their recovery goals.

And, despite an ongoing misinformation campaign by Republicans and their industry allies designed to turn the public against ESA, 90 percent of American voters support keeping the law intact. These facts are not up for debate, no matter how strongly opponents of the law believe that polluters and land developers should not have to watch out for wildlife.

Deep down, my Republican colleagues know this. Instead of a full frontal assault, the advocates for extinction talk about the need to reform or modernize the Act. These transparent attacks on one of the most successful and popular conservation statutes in the history of the world are old, tired, and frankly, not fooling anybody.

The Majority has served up a weird menu of bills before us today, some of which have been warmed over from the last time we went through this pointless exercise in 2014. Three years later, it looks even less appealing, and represents only a small sample of the 200-plus legislative proposals to weaken ESA that have been floated since Republicans took control of the House in 2011.

I cannot say this strongly or frequently enough: ESA does not need congressional meddling to work better; what it needs is congressional support.

The Fish and Wildlife Service and the National Marine Fisheries Service have provided us with more than 40 years of evidence that the law gives states, localities, landowners, and private interests an incredible amount of flexibility to proceed with development projects in ways that conserve fish, wildlife, plants, and the landscapes they need to survive. These agencies simply need us to provide adequate funding for them to do their jobs, and then get out of the way.

Claims that complying with ESA kills jobs or impedes economic growth are simply not grounded in reality. The U.S. economy has more than tripled since the law was passed—from \$5 trillion in 1973 to \$16 trillion now.

Yes, we should put the brakes on projects that would wipe unique forms of life off the face of the Earth. We have a moral duty to preserve for future generations the ability to discover how species can benefit them. Will the cure from cancer come from nature? What about the road map to a new revolution in agriculture or energy? We will never know if we choose to squander biodiversity instead of protecting it.

For Members of this 115th Congress to declare that we should get to decide which species live or die for all time is, quite frankly, arrogant and shameful. The flaws with these bills before us are self-evident: basing conservation decisions on politics instead of science; limiting access to the courts; making it easier for bad guys

to poach and traffic elephants, lions, and rhinos, just so the mega-rich can shoot them without having to actually travel to Africa.

These bills are an embarrassment and a waste of time. Regardless of what their sponsors say, the goal of each of these bills is to weaken ESA, and not to make it work better. Enacting these bills into law would drive the extinction of fish, wildlife, and plants in America and around the globe, and they must be defeated.

With that, I yield back, Mr. Chairman. Thank you.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, RANKING MEMBER,  
COMMITTEE ON NATURAL RESOURCES

The Endangered Species Act works.

Despite years of Republican efforts to pass bills weakening the Act and cut funding for agencies that protect and recover imperiled American wildlife, 99 percent of listed species have continued to survive, and 90 percent are on schedule to meet their recovery goals.

And, despite an ongoing misinformation campaign by Republicans designed to turn the public against the ESA, 90 percent of American voters support keeping the law intact. These facts are not up for debate, no matter how strongly opponents of the law believe that polluters and land developers shouldn't have to watch out for wildlife.

Deep down, Republicans know this. So, instead of a full frontal assault, the advocates for extinction talk about the need to "reform" or "modernize" the Act. These transparent attacks on one of the most successful and popular conservation statutes in the history of the world are old, tired, and not fooling anyone.

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I cannot say this strongly, loudly, or frequently enough: the ESA does not need congressional meddling to work better. What it needs is congressional support.

The Fish and Wildlife Service and the National Marine Fisheries Service have provided us with more than 40 years of evidence that the law gives states, localities, landowners, and private interests an incredible amount of flexibility to proceed with development projects in ways that conserve fish, wildlife, plants and the landscapes they need to survive. These agencies simply need us to provide adequate funding for them to do their jobs, and then get out of the way.

Claims that complying with the ESA kills jobs or impedes economic growth are simply not grounded in reality. The U.S. economy has more than tripled since the law was passed: from \$5 trillion in 1973 to \$16 trillion today.

Yes, we *should* put the brakes on projects that would wipe unique forms of life off the face of the Earth. We have a moral duty to preserve for future generations the ability to discover how species can benefit them. Will the cure for cancer come from nature? What about the road map to a new revolution in agriculture or energy? We will never know if we choose to squander biodiversity instead of protecting it.

For Members of this 115th Congress to declare that we should get to decide which species live or die—for all time—is arrogant and shameful. The flaws with the bills before us today are self-evident: basing conservation decisions on politics instead of science; limiting access to the courts; making it easier for bad guys to poach and traffic elephants, lions, and rhinos just so the mega-rich can shoot them without having to actually travel to Africa.

These bills are an embarrassment and a waste of time. Regardless of what their sponsors say, the goal of each of these bills is to weaken the ESA, not to make it "work better."

Enacting these bills into law would drive the extinction of fish, wildlife, and plants in America and around the globe, and they must be defeated.

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The CHAIRMAN. Thank you. And I wish to hell you would quit trying to hide your true feelings behind rhetoric. Just say what you actually believe.

[Laughter.]

The CHAIRMAN. I will now turn to Mr. Gohmert for 5 minutes for an opening statement, if he wishes to do so.

**STATEMENT OF THE HON. LOUIE GOHMERT, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. GOHMERT. Thank you, Mr. Chairman. Good morning and welcome to this vitally important hearing.

The Endangered Species Act of 1973, or ESA, was passed with the best of intentions. As stewards of the Earth, it is our responsibility to care for and shepherd the animals under our dominion.

Although it was intended to protect those species in most dire need, the Endangered Species Act is failing in its mission. In fact, the ESA often has the exact opposite effect, hindering instead of helping these species. States, counties, farmers, loggers and citizens from east Texas to the Great Lakes are all making it clear that the ESA is no longer working.

The slate of bills we have before us today are but a small, necessary step in the right direction. Whether it be onerous permitting processes, lack of state and local stakeholder input, blatant disregard for relevant scientific data, or taxpayer dollars propping up environmental interest groups, the system in place is broken. These bills offer solutions.

H.R. 424, introduced by our friend, Collin Peterson, would direct the Secretary of the Interior to reissue vital final rules from 2011 to 2012 that removed the gray wolf from the endangered species list in Wyoming and the Great Lakes area. Although litigious environmental groups have repeatedly blocked the return of management of gray wolves to their respective states, population increases have long warranted their de-listing.

It is difficult for anyone to say that they love and care about nature and ignore the damage that gray wolves have made when they are over-populated. It is mean, it is vicious, it is vile.

While the U.S. Fish and Wildlife Service de-listed wolves in Wyoming in accordance with a March 2017 court order, the decision is still subject to judicial review without this critical legislation. The litigiousness of environmental groups complicating the gray wolf situation is but a symptom of a larger problem: the ease with which plaintiffs can be rewarded by suing the Federal Government under the Endangered Species Act.

My colleague, Bill Huizenga, has introduced H.R. 3131. This bill would standardize attorney's fees awarded in suits by private parties against the Federal Government, making them conform to the Equal Access to Justice Act. Currently, the ESA does not require a party suing the Federal Government to prevail in order to recover attorney's fees, and there is no cap on hourly attorney's fees. This legislation will reform this process by requiring plaintiffs suing the government under the ESA to prevail in order to collect attorney's fees, and by capping those fees at \$125 per hour.

Building on the importance of saving the American taxpayer's hard-earned money, my friend and colleague from Texas, Representative Pete Olson, introduced H.R. 717. This bill will amend the Endangered Species Act to require the Secretary of the Interior or Commerce to review the economic cost of adding a species to the endangered species list.

Under this proposed legislation, if the Secretary determines that adding a species to the endangered species list would result in significant, cumulative economic effects, the species would be precluded from being placed on the list. Further, this bill also takes steps to streamline the petitioning process, thereby cutting down on excessive litigation.

Finally, both my bill, H.R. 2603, the SAVES Act, which de-lists non-native species, returning certain regulatory authority back to the states, and Mr. Peterson's gray wolf bill, are solutions for the symptoms of a larger problem, and that is the lack of state and local input.

Thankfully, Representative Dan Newhouse's H.R. 1274, the State, Tribal, and Local Species Transparency Act, goes a long way in addressing this exact problem. By increasing data transparency and including data submitted by localities, the listing process will more closely adhere to the realities on the ground.

I thank the Chairman for holding this important hearing, and the witnesses for their testimony. I yield back, Mr. Chairman.

[The prepared statement of Mr. Gohmert follows:]

PREPARED STATEMENT OF THE HON. LOUIE GOHMERT, VICE CHAIRMAN, COMMITTEE  
ON NATURAL RESOURCES

Good morning and welcome to this vitally important hearing. The Endangered Species Act of 1973—or ESA—was passed with the best of intentions. As stewards of the Earth, it is our responsibility to care for and shepherd the animals under our dominion.

Although it was intended to protect those species in most dire need, the Endangered Species Act is failing at its mission. In fact, the ESA often has the exact opposite effect, hindering instead of helping these species. States, counties, farmers, loggers and citizens from east Texas to the Great Lakes are all making it clear that the ESA is no longer working.

The slate of bills we have before us are but a small, necessary step in the right direction. Whether it be onerous permitting processes; lack of state and local stakeholder input; blatant disregard for relevant scientific data; or taxpayer dollars propping up environmental interest groups, the system in place is broken.

These bills offer solutions. H.R. 424, introduced by my friend, Rep. Collin Peterson, would direct the Secretary of the Interior to reissue vital final rules from 2011 and 2012 that removed the gray wolf from the endangered species list in Wyoming and the Great Lakes area.

Although litigious environmental groups have repeatedly blocked the return of management of gray wolves to their respective states, population increases have long warranted their de-listing.

While the U.S. Fish and Wildlife Service de-listed wolves in Wyoming in accordance with a March 2017 court order, the decision is still subject to judicial review without this critical legislation. The litigiousness of environmental groups complicating the gray wolf situation is but a symptom of a larger problem: the ease with which plaintiffs can be rewarded by suing the Federal Government under the Endangered Species Act.

My colleague, Rep. Huizenga, has introduced H.R. 3131. This bill would standardize attorney's fees awarded in suits by private parties against the Federal Government, making them conform to the Equal Access to Justice Act. Currently, the ESA does not require a party suing the Federal Government to prevail in order to recover attorney's fees, and there is no cap on hourly attorney's fees. This legislation will reform this process by requiring plaintiffs suing the government under the ESA to prevail in order to collect attorney's fees, and by capping those fees at \$125 per hour.

Building on the importance of saving the American taxpayer's hard-earned money, my friend and colleague from Texas, Rep. Olson, introduced H.R. 717. This bill will amend the Endangered Species Act to require the Secretary of the Interior or Commerce to review the economic cost of adding a species to the endangered species list.

Under this proposed legislation, if the Secretary determines that adding a species to the endangered species list would result in significant, cumulative economic effects, the species would be precluded from being placed on the list. Further, this

bill also takes steps to streamline the petitioning process thereby cutting down on excessive litigation.

Finally, both my bill, H.R. 2603, The SAVES Act, which de-lists non-native species, reducing regulations and thereby empowering states, and Mr. Peterson's Gray Wolf bill, are solutions for the symptoms of a larger problem: lack of state and local input.

Thankfully, Rep. Dan Newhouse's H.R. 1274, the State, Tribal, and Local Species Transparency Act, goes a long way in addressing this exact problem. By increasing data transparency and including data submitted by localities, the listing process will more closely adhere to the realities on the ground.

I thank the Chairman for holding this important hearing, and the witnesses for their testimony today.

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The CHAIRMAN. Thank you. I now recognize Mr. Huffman as giving the Democrat statement as the Vice Ranking Member. You have 5 minutes. Go for it.

**STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. HUFFMAN. Thank you, Mr. Chairman. The slate of bills before us today is a painful reminder of how far we have moved away from the bipartisan agreement that Democrats and Republicans used to share over a core set of values, the values of conservation and respect for science, in particular.

Both sides of the aisle used to agree that protecting America's natural heritage for the enjoyment of this generation and for future generations was a worthy goal, and that relying on sound science to guide conservation policy was the gold standard for natural resources management.

Of course, our fish, wildlife, plants, and the landscapes that they need are a huge part of that heritage. When it was enacted in 1973, the ESA had incredibly strong bipartisan support. It passed the Senate unanimously and was voted 390 to 12 out of the House of Representatives. I highlight that this happened during the height of the Watergate investigation—not exactly a high watermark of bipartisan cooperation with the executive branch. But the ESA, nevertheless, had that incredible bipartisan foundation.

It has long been one of our most successful and broadly supported conservation laws, preventing the extinction of 99 percent of the species that have received its protection over its 44-year run.

Now remember, the ESA only kicks in when species are in real trouble, in danger of extinction, or when it is foreseeable that they will be in such danger.

If an ER doctor was able to save 99 percent of the critical patients that came through the door of that ER, and put 90 percent of them on a clear path to recovery, as the ESA has done with imperiled species, that doctor would receive universal praise.

So, I think it is worth asking why the ESA receives so much criticism in this Committee. I suspect the answer is pretty simple: the law requires Federal agencies to use the best-available science to make decisions to prevent extinction, regardless of who produced that science. That can be bad news for mining companies, the oil and gas industry, big developers, and others.

For example, one of the bills before us today, H.R. 1274, statutorily deems anything submitted by states, tribes, or localities

as the best available science, regardless of the quality of that information.

Another bill, H.R. 717, would let economics over-ride science when Federal agencies are reviewing fish and wildlife that are in serious decline.

Another bill, H.R. 2603, removes ESA protections from species that are not native to the United States, and that would essentially provide blank checks to private game ranchers in Texas to hunt the endangered African antelope, and wildlife traffickers to profit from the domestic sale of ivory, thereby exacerbating the ongoing African elephant poaching crisis. It is a bad idea.

What these bills ignore is that protecting fish and wildlife is not just a good idea in principle; it is good for the economy and it is good for people. The salmon fishermen in my district and elsewhere on the West Coast, for example, depend on strong and functioning ESA protections for salmon runs, allowing them to continue catching healthy stocks. It is about protecting jobs and a way of life.

The bottom line is that the ESA has worked, and it has remained untouched for more than 40 years because decisions under the law have to be made based on data and evidence. That is a pretty reasonable standard that we all should be able to uphold.

The ESA is not causing drought, flood, or pestilence, as some have argued before this Committee. All it is doing is requiring us to consider the impact on fish, wildlife, plants, and habitat, and requiring us to avoid causing extinction.

So, yes, we no longer just cut down as many trees, or catch as many fish, as possible without thinking about the future. It is the lesson of the Lorax, it is the tragedy of the commons. And, as I said before, it is not just for fish and wildlife, it is for future generations of people, as well.

And, with that, Mr. Speaker, I yield back without once using the word "bedrock."

The CHAIRMAN. You just did it. You lost again.

[Laughter.]

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, VICE RANKING MEMBER,  
COMMITTEE ON NATURAL RESOURCES

Thank you, Mr. Chairman.

The slate of bills before us today is a painful reminder of how far we have moved away from the bipartisan agreement Democrats and Republicans used to share over a core set of values, and the values of conservation and respect for science, in particular.

Both sides of the aisle used to agree that protecting America's natural heritage for the enjoyment of this generation and future ones was a worthy goal, and that relying on sound science to guide conservation policy was the gold standard for natural resources management.

Of course, our fish, wildlife, plants, and the landscapes they need are a huge part of that heritage. When enacted in 1973, the ESA Act had strong bipartisan support. It passed the Senate unanimously, and was voted 390 for and 12 against in the House. I highlight that this was during height of the Watergate investigation—not exactly a high watermark of bipartisan cooperation with the executive branch.

The Endangered Species Act has long been one of our most successful and broadly supported conservation laws, preventing the extinction of 99 percent of the species that have received its protection over the past 44 years.

Remember, the ESA only kicks in when a species is in danger of extinction, or when it's foreseeable that it will be in such danger. If an emergency room doctor saved 99 percent of the critical patients that came through the door, and put 90

percent of them on a clear and timely road to recovery as the ESA has done with imperiled species, that doctor would receive universal praise.

So, why does the ESA receive so much criticism in this Committee? I suspect the answer is simple: the law requires Federal agencies to use the best available science to make decisions to prevent extinction, regardless of who produced that science, and that can be bad news for mining companies, oil and gas industry, big developers, and others.

For example, one of the bills before us today (H.R. 1274) deems anything submitted by states, tribes, or localities to be the "best" available science, regardless of the quality of the information. Another bill, H.R. 717, would let economics override science when Federal agencies are reviewing fish and wildlife that are on the decline. Yet another one, H.R. 2603 removes ESA protections from species that are not native to the United States. This bill would essentially provide blank checks to private game ranchers in Texas to hunt the endangered African antelope, and wildlife traffickers to profit from domestic sales of ivory, thereby exacerbating the ongoing African elephant poaching crisis.

What these bills ignore is that protecting fish and wildlife is not just a good idea in principle, but good for the economy and for people as well. The salmon fishermen in my district and elsewhere on the West Coast, for example, depend on a strong and functioning ESA to protect salmon runs, allowing them to continue catching healthy stocks.

The bottom line is that the ESA has worked, and has remained untouched for more than 40 years, because decisions under the law must be made based on data and evidence. That's a pretty reasonable standard to uphold.

The ESA is not causing drought, or flood, or pestilence as some have argued before this Committee. All it's doing is requiring us to consider our impact on fish, wildlife, plants, and habitat—and requiring us to avoid causing extinction. So yes, we no longer just cut down as many trees, or catch as many fish, as possible without thinking about the future. But that's a good thing, as I said, not just for fish and wildlife but for future generations of people as well.

It would be a welcome change if we were really talking about modernizing the ESA so that it works better for both people and wildlife. But these bills won't get us there.

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The CHAIRMAN. All right. We thank you for the witnesses who are actually here, the panel.

This is the drill. You all have been through this. You have 5 minutes. Your written statements are already in the record. Microphones have to be turned on. The clock is ahead of you. I will cut you off at the 5-minute level without trying to be rude.

I will tell you now that, once you are done, we would invite you to stay with us and participate in the rest of the hearing. If you want to insult us by leaving, that is your right. You can claim you are busy, whatever you want to do, but know that you are more than welcome to stay for the entire hearing, as we go forward.

So, we will do in this order, first of all, Mr. Newhouse, then we will go to Mr. Peterson, to Mr. Olson, to Mr. Gohmert up here, to Mr. Huizenga. You will be the clean-up hitter for us.

So, actually, technically, you are the clean-up hitter. You are batting five.

Mr. Newhouse, are you ready to lead us off? You are recognized for 5 minutes. Good to have you back on the Committee, by the way.

**STATEMENT OF THE HON. DAN NEWHOUSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mr. NEWHOUSE. Thank you very much, Mr. Chairman. Ranking Member Grijalva, members of the Committee, it is great to be back with all of you, as well. And I want to thank you for the opportunity to address this Committee in support of my legislation,

H.R. 1274. It is the State, Tribal, and Local Species Transparency and Recovery Act. And yes, we need a couple more words in there.

This legislation is simple and it is logical. By including state and local entities in Federal determinations and decision making, we can improve policy making and reduce the impacts on states, municipalities, tribes, and local stakeholders, all while ensuring endangered species listing decisions include the best pertinent data involved in such matters.

Federal agencies like the Fish and Wildlife Service are currently not required to share underlying data used in listing decisions made under the ESA with the states or the local entities that would be impacted by such listing decisions. These agencies too often overlook local conservation plans that are developed to ensure the protection of native species and habitats. These local efforts should not be disregarded, for oftentimes, the counties or the local municipalities are among the best sources of information. Local stakeholders deserve to know whether their hard work is taken into consideration long before the end result of a Federal listing decision is made public.

My bill will amend the ESA to simply require that Federal agencies disclose all data used to promulgate a potential or final listing determination to the states and local jurisdictions affected by Federal regulatory actions.

The legislation also gives local stakeholders the opportunity to verify, dispute, or complement the information the Federal agencies use in the ESA listings.

There have been too many examples of states' data and species recovery plans having been effectively ignored by Federal agencies, even after earnest and costly efforts were made to develop comprehensive and effective plans at the local level. By providing states, tribes, and localities the data used to promulgate these proposed listings, an opportunity arises for local stakeholders to get involved and have their voices heard.

Two cases in my own district in Central Washington come to mind regarding transparency of Federal decision making involving specific species.

Earlier this year, the National Park Service, as well as Fish and Wildlife, released a draft plan to reintroduce the grizzly bear in the North Cascades ecosystem. Both agencies claimed the bears will be joining an existing grizzly population, however, the last confirmed sighting of a grizzly bear in that area was in 1996. The people living in these communities deserve to know what data the Federal agencies are basing their decisions on. I have expressed my deep concerns regarding the lack of sound science and data to support this decision, and will continue to do so.

The case of the gray wolf also comes to mind. The Department of the Interior and the Fish and Wildlife Service published a proposed rule that would remove the gray wolf's listing over 4 years ago, and even found the best-available scientific and commercial information indicates that the currently listed entity is not a valid species under the Act.

Yet, the wolf remains listed. The gray wolf is found in nearly 50 countries around the world and has grown substantially across its range. I can attest to that. I will continue to be a firm advocate

of de-listing the gray wolf, and returning its management to the states.

On a final note, Mr. Chairman, I often share with my constituents that, as a farmer, I consider myself a conservationist and a true steward of the gifts God has given us. Farmers are on the forefront of protecting our Nation's rich, natural heritage. I believe it is important that we preserve our forests, our natural resources, and wildlife for our children, as well as our grandchildren, to enjoy. This legislation will only strengthen that effort.

By modernizing the Endangered Species Act, we can ensure its effectiveness in protecting imperiled species successfully. I look forward to working with you and with the Committee to move this legislation forward. And, again, thank you for the opportunity.

[The prepared statement of Mr. Newhouse follows:]

PREPARED STATEMENT OF THE HON. DAN NEWHOUSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON ON H.R. 1274

Chairman Bishop, Ranking Member Grijalva, and members of the Committee, thank you for the opportunity to address the Committee on Natural Resources in support of my legislation, H.R. 1274, the "State, Tribal, and Local Species Transparency and Recovery Act." This legislation is simple, and logical—by including state and local entities in Federal determinations and decision making, we can improve policy making and reduce the impacts on states, municipalities, tribes, and local stakeholders, all while ensuring endangered species listing decisions include the best, pertinent data involved in such matters.

Federal agencies like the U.S. Fish & Wildlife Service (FWS) are currently not required to share the underlying data used in listing decisions made under the Endangered Species Act of 1973 (ESA) with the states or local entities that would be impacted by such listing decisions. These agencies too often overlook local conservation plans developed to ensure the protection of native species and habitats. These local efforts should not be disregarded, for oftentimes, the counties or local municipalities are among the best sources of such information. Local stakeholders deserve to know whether their hard work is taken into consideration long before the end result of a Federal listing decision is made final and public.

The State, Tribal, and Local Species Transparency and Recovery Act will amend the ESA to simply require that Federal agencies disclose all data used to promulgate a potential or final listing determination to the states and local jurisdictions affected by Federal regulatory actions. The legislation also gives local stakeholders the opportunity to verify, dispute, or complement the information Federal agencies use in an ESA listing. There have been too many examples of states' data and species recovery plans having been effectively ignored by Federal agencies, even after earnest and costly efforts were made to develop comprehensive and effective plans at local levels. By providing states, tribes, and localities the data used to promulgate these proposed listings, an opportunity arises for local stakeholders to get involved, and have their voices heard.

Two cases in my own district in Central Washington come to mind regarding transparency of Federal decision making involving specific species. Earlier this year, the National Park Service and FWS released a draft plan to reintroduce grizzlies in the North Cascades Ecosystem (NCE). NPS and FWS claim the bears will be joining an existing grizzly population, however the last confirmed sighting of a grizzly bear in the NCE was in 1996. The people living in these communities deserve to know what data these Federal agencies are basing their decisions on. I have expressed my deep concerns regarding the lack of sound science and data to support this plan and will continue to voice them.

The case of the gray wolf also comes to mind. The Department of the Interior and FWS published a proposed rule that would remove the gray wolf's listing *over 4 years ago*—and even found the "best available scientific and commercial information indicates that the currently listed entity is not a valid species under the Act." Yet, the wolf remains listed. The gray wolf is found in nearly 50 countries around the world and has grown substantially across its range. I will continue to be a firm advocate of de-listing the gray wolf and returning its management to the states.

On a final note, Mr. Chairman, I often share with my constituents that, as a farmer, I consider myself a conservationist and steward of the gifts God has given us. Farmers are on the forefront of protecting our Nation's rich, natural heritage.

I believe it is important that we preserve our forests, natural resources, and wildlife for our children and grandchildren to enjoy. This legislation will only strengthen that effort. By modernizing the Endangered Species Act, we can ensure its effectiveness in protecting imperiled species successfully. I look forward to working with the Committee to move this legislation forward, and again thank you for the opportunity.

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Mr. NEWHOUSE. And, at the risk of the demise of my bill, I must excuse myself and go to another Committee hearing. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Well, at least you gave us a nice segue into the next speaker, talking about farmers. We recognize the Ranking Member on the Ag. Committee.

Mr. PETERSON, it is nice to have you on this side of the building, on this side of the Floor for a change. You are recognized for 5 minutes.

**STATEMENT OF THE HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. PETERSON. Thank you very much, Mr. Chairman, Ranking Member Grijalva, and other members of the Committee, for the invitation to speak in support of my bill, the Gray Wolf State Management Act of 2017.

In 2011, the Fish and Wildlife Service determined that the gray wolves in Minnesota, Wisconsin, and Michigan no longer required Federal protection, based on two main factors. First, the gray wolf population numbers in each state remained well above established recovery goals set by the 1992 recovery plan for the eastern timber wolf. And second, the wolf management plans established by each state provided for long-term conservation of a viable wolf population in the region. While under state management from 2011 to 2014, gray wolf populations remained well above recovery goals.

At the end of 2014, a single judge sitting in Washington, DC, that I would say had no clue about what is going on in our part of the world, created a mess by somehow deciding that the wolf had not established themselves, or re-established in their entire range.

Somebody convinced this judge that the range of the wolf was all the way down into Iowa, which I don't think is true. So, that means that Minneapolis and Lake Minnetonka should have wolves. Maybe we should release some in downtown Minneapolis or out in Lake Minnetonka, and if they ate some of those fancy little dogs, maybe we would finally get this thing fixed.

[Laughter.]

Mr. PETERSON. So, yes, this was all done despite scientific evidence that has been conducted by the U.S. Fish and Wildlife Service that the wolf population recovered and thrived, and they actually support the de-listing.

This judge's decision suddenly put our farmers and ranchers in Minnesota, Wisconsin, and Michigan in a very difficult situation. Currently, it is illegal for a farmer to shoot a gray wolf that is actively attacking its cattle or pets. And when the attacks occur, my constituents are forced to choose between following the law or protecting their livestock and their livelihoods.

Wyoming went through a similar situation when a judge single-handedly relisted wolves in 2014. In March of 2017, the D.C. Circuit Court of Appeals reversed that court decision, and the wolves are once again under Wyoming state management. But this bill returns the management of the gray wolves in Minnesota, Wisconsin, and Michigan from the Federal Government back to the states, and does not allow for further judicial review.

The bill also includes Wyoming, to protect the state from further judicial over-reach, if that might happen.

The courts have created a big enough mess already. And I think it is important for you to note that my bill does not prevent the U.S. Fish and Wildlife Service from relisting wolves in the future.

I would like to submit for the record letters of support from several organizations, and technical documents from the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources, which in this case, they did a wonderful job of managing the wolf population. And that is something for me to say, because I have not necessarily gotten along with the Minnesota DNR. This is one case where they did a great job.

[The information follows:]

**Rep. Peterson Submission—Letters of Support for H.R. 424**

AMERICAN FARM BUREAU FEDERATION

July 18, 2017

Hon. ROB BISHOP, *Chairman*,  
Hon. RAUL GRIJALVA, *Ranking Member*,  
*House Committee on Natural Resources*,  
*Washington, DC 20515*.

Re: Gray Wolf State Management Act (H.R. 424)

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of the American Farm Bureau Federation, we would like to thank you for scheduling a hearing to consider the Gray Wolf State Management Act (H.R. 424). This commonsense, bipartisan legislation would reinstate the U.S. Fish and Wildlife Service's (FWS) order to remove the gray wolf in the Western Great Lakes and Wyoming from the federal Endangered Species List. It would also provide legal clarity for the gray wolf's status on the Endangered Species list.

Farm Bureau has been an active participant in the wolf issue for decades. That participation encompasses legal efforts in the federal district court in Minnesota seeking damages on behalf of Minnesota ranchers resulting from wolf predation; a lawsuit challenging the introduction of wolves into Montana, Wyoming and Idaho; comments on proposed federal regulations; comments delivered in public and congressional hearings; and regular interaction with the FWS on the impact of gray wolf populations on the membership.

The purpose of the ESA is to recover species that are threatened with extinction: the Act clearly lays out the appropriate path to take after a species has recovered. In the case of the gray wolf, affected states have taken a positive, constructive approach in assuring continued recovery of the wolf, a step which supports the species' de-listing.

Farm Bureau supports Federal efforts to de-list the gray wolf. Such an effort is clearly justified in light of the goals of the Endangered Species Act; the best available scientific and commercial data that is available; the goals outlined in various recovery plans; and the aggressive leadership in affected states. Viewed in this context, the current status of the wolf clearly justifies its removal from the list of threatened and endangered species.

We commend you for your leadership on this important issue, and look forward to continuing to work with you and the House Natural Resources Committee in securing enactment of this critically important legislation.

Sincerely,

DALE MOORE,  
*Executive Director, Public Policy.*

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MICHIGAN CATTLEMEN'S ASSOCIATION

July 19, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

This Michigan Cattlemen's Association wishes to thank you for holding a hearing to discuss H.R. 424, the Gray Wolf State Management Act of 2017. We fully support H.R. 424.

The wolf population in Michigan has exceeded 600 wolves since 2011. Cattle farmers and ranchers in Michigan continue to be severely impacted by wolf attacks on their herds. There have been over 230 verified wolf attacks on livestock and dogs in Michigan since 2010. Due to a Federal court decision in December 2014, wolves in the western Great Lakes area (including Michigan, Minnesota, and Wisconsin) were relisted under the Endangered Species Act (ESA).

With ESA protection in place, lethal action against wolves is illegal, even if they are in the process of attacking livestock. Cattle producers are left completely helpless as wolves prey on their herds. H.R. 424 would return management of wolves to the states where the species can be managed properly.

We appreciate the committee's consideration and we strongly urge passage of H.R. 424.

Sincerely,

CARL VANDERKOLK,  
*President.*

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MICHIGAN FARM BUREAU

July 17, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

Thank you for holding a hearing on H.R. 424, the Gray Wolf State Management Act in the House Natural Resources Committee. We support this legislation and appreciate your leadership in continuing the discussion on this critical issue.

Michigan Farm Bureau represents nearly 45,000 farming families throughout the state, many of which are livestock producers. In particular, farmers in the Upper Peninsula have been very concerned about the growing threat of predation by the Western gray wolf.

Farm Bureau supports legislation that would direct the Secretary of the Interior to reissue the final rule that was published on December 28, 2011 (76 Fed. Reg. 81666 et seq) delisting the Western Great Lakes District Population Segment (DPS) of gray wolf, without regard to any other provision or statute or regulation that applies to the issuance of such rule and not subject to judicial review. This legislation would achieve this objective.

Farm Bureau supports Rep. Collin Peterson's (MN-07) legislation and believes it strikes the right balance on how to address the growing gray wolf population in Northern Michigan and surrounding states.

Sincerely,

JOHN KRAN,  
*National Legislative Counsel.*

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MICHIGAN UNITED CONSERVATION CLUBS

July 19, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop, Ranking Member Grijalva and Members of the House Committee on Natural Resources:

I am writing to you on behalf of the 80,000 members and supporters of the Michigan United Conservation Clubs to convey our thanks and support for your consideration of H.R. 424 which concerns the restoration of state management for gray wolves in the western Great Lakes region. Our members are hunters, anglers, trappers, and conservationists of every background in Michigan.

For over 15 years, wolves have met, and consistently and substantially exceeded population recovery goals established by the United States Fish and Wildlife Service. Additionally, a diverse group of stakeholders and state fish and wildlife agency professionals have collaborated on the development of a management plan to ensure the long-term conservation of wolves in Michigan. Yet despite their recovery and the preparedness of the state to assume management control for wolves, their legal status has not aligned with the biological reality of their recovery.

We respectfully request that you join us in supporting the conservation success of a fully recovered, healthy, and independently viable wolf population in Michigan by restoring state management of this species.

Sincerely,

DANIEL EICHINGER,  
*Executive Director.*

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MINNESOTA STATE CATTLEMEN'S ASSOCIATION

July 17, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: H.R. 424—Gray Wolf State Management Act of 2017

Dear Chairman Bishop and Ranking Member Grijalva:

The Minnesota State Cattlemen's Association thanks the House Committee on Natural Resources for showing support and granting a hearing for H.R. 424—Gray Wolf State Management Act of 2017.

While under state control, the State of Minnesota, through the Minnesota Department of Natural Resources and Department of Agriculture, developed and implemented a comprehensive and time proven wolf management plan. That plan, accepted by the U.S. Department of Interior, was the basis for delisting and the means of ensuring Minnesota's wolves would never again become threatened or endangered.

Minnesota's gray wolf, by all measures established, was effectively maintained in Minnesota and should once again have population control returned to the state. The U.S. Fish and Wildlife Service and the State of Minnesota do not dispute that wolves have recovered and maintained their population here. However, efforts to delist wolves in this area continue to be challenged on procedural and technical, rather than wolf conservation, grounds. The success of the ESA in recovering this population and the management efforts of the Minnesota Department of Natural Resources have been overshadowed by litigation and the unnecessarily onerous proc-

ess to delist the gray wolf. If the State of Minnesota satisfactorily follows their approved population management plan, then future delisting of the gray wolf should not be subject to judicial review. With this type of action, we firmly believe it would remedy what is necessary to overcome the long history of legal and technical challenges to managing a clearly recovered species in the state of Minnesota.

Once delisted, the State of Minnesota will continue to protect wolves and monitor their population, while giving livestock and domestic pet owners and wildlife more protection from wolf depredation as well as diseases carried by wolves. According to the original recovery plan, wolves have recovered in Minnesota and no longer warrant listing under the Endangered Species Act of 1973. The original USFWS recovery plan called for 1,251 to 1,400 gray wolves in Minnesota to meet delisting criteria. The state plan establishes a minimum population of 1,600 wolves to ensure the long-term survival of the wolf in Minnesota. The state's wolf population, which was estimated at fewer than 750 animals in the 1950s, has grown an estimated 2,300 animals according to the 2015–16 mid-winter wolf population survey. This obviously far exceeds state and federal recovery goals and has led to increased conflicts between wolves and humans, pets, and livestock. This would also show that, while under state control, state agencies have been able to successfully manage wolf populations.

Minnesota's cattle and beef industry is a diverse and robust sector of the state's agricultural economy. Cattle and beef production is the second largest livestock sector in Minnesota, accounting for 27% of Minnesota's livestock cash receipts and 13% of the state's total agricultural cash receipts. Nationally, Minnesota ranks tenth in cattle production and is home to roughly 2.4 million head of cattle and calves. This sector of animal agriculture has a "multiplier effect" of \$2.05 for every dollar of output. Specifically, Minnesota's beef and cattle production creates economic activities in many other economic sectors including agronomy, manufacturing, transportation, trade, services, finance, insurance, real estate, and construction. Minnesota beef production's total economic impacts at the farm level (not including meat processing) equals 4.2 billion dollars and employs nearly 27,000 Minnesotans. Ensuring Minnesota's beef farmers and ranchers are able to protect their cattle and herds when needed is vital to supporting this important sector of Minnesota's economy.

Thank you for your time and consideration of H.R. 424—Gray Wolf State Management Act of 2017.

Sincerely,

KRIST WOLLUM,  
*President.*

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MINNESOTA DEER HUNTERS ASSOCIATION

July 15, 2017

Hon. ROB BISHOP, *Chairman*,  
Hon. RAUL GRIJALVA, *Ranking Member*,  
*House Committee on Natural Resources*,  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

We are writing to thank you for scheduling a hearing on H.R. 424 that would restore management of the gray wolf to several states including Minnesota. We urge your support of this important legislation.

On December 19, 2014, a U.S. District Court Judge overturned the Fish and Wildlife Service's (FWS) November 2011 decision to delist the gray wolf in the Western Great Lakes region, including Minnesota, Wisconsin and Michigan. The result of this decision was to relist the gray wolf on the Endangered Species List in Minnesota and revoke State of Minnesota management. For several years, Minnesota had effectively managed wolves in Minnesota through a conservative plan that provides for hunting and livestock depredation control while maintaining a healthy wolf population. Now, as a result of the court ruling, a person may only take a wolf in the defense of human life and not to protect property such as livestock and personal pets.

The gray wolf has recovered in Minnesota by all reasonable measures, particularly those provided in the Endangered Species Act. The federal recovery plan for the gray wolf identified a recovered population number of 1,251–1,400 wolves. The Minnesota Department of Natural Resources (MNDNR) winter wolf population survey in 2015–16 estimated the population to be approximately 2,300. MNDNR

concluded there has been no biologically or statistically significant change in the size of the statewide mid-winter wolf population over the past 4 years of surveys.

An appeal of the District Court ruling has been heard, but the appeal process is lengthy and leaves no effective wolf management in Minnesota. A legislative fix is a more suitable solution to the problem. We ask you to support H.R. 424 that would require the FWS to reissue the rule that delisted the gray wolf in Minnesota and other states. H.R. 424 would not modify the Endangered Species Act, nor would it prevent the FWS from deciding to relist the gray wolf in the future if it determines that the wolf population is in need of federal protection.

Again, we seek your support in restoring management of the gray wolf to the State of Minnesota. Thank you.

Sincerely,

CRAIG L. ENGWALL,  
*Executive Director.*

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MINNESOTA FARM BUREAU

July 17, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

Thank you for holding a hearing on H.R. 424, the Gray Wolf State Management Act in the House Natural Resources Committee. Minnesota Farm Bureau supports this legislation and appreciate your leadership in continuing the discussion on this critical issue.

On December 19, 2014, U.S. District Judge Beryl Howell immediately reinstated Endangered Species Act (ESA) protections for gray wolves in Minnesota, Michigan, and Wisconsin. This decision now leaves farmers, ranchers, and pet owners helpless in protecting their animals against wolf attacks. Farm Bureau members continuously share devastating stories about the inability to protect their livestock from these vicious attacks with no option other than to watch their animals die.

In order to meet delisting criteria set by USFWS, the gray wolf population needed to be between 1,251 and 1,400. Once turned over to state management, Minnesota set a minimum population of 1,600 wolves. The state's current wolf population is now more than 2,400, which clearly far exceeds state and federal recovery goals. The State of Minnesota has done and will continue to do a superior job of monitoring the population to allow for a healthy population while also giving pet and livestock owners options to protect their animals, but management needs to be back under control of the state rather than the ESA. H.R. 424 would help to strike this balance.

Once again, thank you for holding a hearing on H.R. 424. If you have any questions on the impacts of wolves to agriculture in Minnesota, I would be happy to answer them.

Sincerely,

KEVIN PAAP,  
*President.*

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MINNESOTA FARMERS UNION

July 17, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of the membership of the Minnesota Farmers Union (MFU) we wish to thank you from taking time to hear H.R. 424 authored by Rep. Collin Peterson. MFU is a strong supporter of this legislation that requires the Department of the Interior to reissue the final rule published on December 28, 2011, that removed the

gray wolf in the Western Great Lakes Distinct Population Segment from the List of Endangered and Threatened Wildlife and that removed the designation of critical habitat for that wolf in Minnesota and Michigan.

De-listing the gray wolf has been a top issue for our livestock farmers in the northern part of the state, as we have seen continued conflict between wolves and livestock farmers. MFU strongly believes that gray wolf numbers have adequately recovered in Minnesota. MFU also strongly believes that the Minnesota Department of Natural Resources (MNDNR) is ready and able to administer the gray wolf population through its current management plans. Minnesota has consistently topped the federal delisting goal of 1,250–1,400 with numbers exceeding 2,000 wolves in recent years surveys.

Again, MFU appreciates Rep. Peterson carrying this important legislation forward, and appreciates the committees time in hearing this legislation, and MFU urges its passage.

Regards,

GARY WERTISH,  
*President.*

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NATIONAL FARMERS UNION

July 18, 2017

Hon. ROB BISHOP, *Chairman*,  
Hon. RAUL GRIJALVA, *Ranking Member*,  
*House Committee on Natural Resources*,  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of National Farmers Union's roughly 200,000 family farmers, ranchers, and rural residents, I would like to thank you for scheduling a hearing to consider the Gray Wolf State Management Act of 2017 introduced by Congressman Collin Peterson (D-MN).

Listing Gray Wolves under ESA forces farmers and ranchers into an untenable position. Farmers and ranchers should be able to defend against predatory animals, such as the Gray Wolf, on their land. The Gray Wolf State Management Act of 2017 prevents farmers and ranchers from having to choose between their livelihood and federal punishment. Our support for this bill comes directly from our member approved policy. Our members believe they should have the right to defend themselves and their livestock from predatory animals, even if the animal is listed under ESA. Our members hold that these animals should be dealt with in the most effective, safe, economical and humane means.

Should you or your staff require any additional assistance on this matter, NFU stands ready to assist.

Sincerely,

ROGER JOHNSON,  
*President.*

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PUBLIC LANDS COUNCIL & NATIONAL CATTLEMEN'S BEEF ASSOCIATION

July 18, 2017

Hon. ROB BISHOP, *Chairman*,  
Hon. RAUL GRIJALVA, *Ranking Member*,  
*House Committee on Natural Resources*,  
*Washington, DC 20515.*

Re: Livestock Industry Support for H.R. 424, the Gray Wolf State Management Act of 2017

Dear Chairman Bishop and Ranking Member Grijalva:

The Public Lands Council (PLC) and the National Cattlemen's Beef Association (NCBA) support H.R. 424, the Gray Wolf State Management Act of 2017.

PLC is the only national organization dedicated solely to representing the roughly 22,000 ranchers operating on federal lands. NCBA is the nation's oldest and largest national trade association for cattlemen and women, representing more than 170,000 cattle producers through direct membership and their state affiliates. PLC

and NCBA are producer directed and in partnership with our state affiliates work to preserve the heritage and strength of the industry by providing a stable business environment for our members.

The livestock industry has numerous concerns with the gray wolf being listed as an endangered species. Unlike most species listed under the ESA, wolves pose a serious threat to wildlife, humans, private property—namely, livestock—even in cases where wolf populations are sparse. The result is economic hardship and the possibility of a need to list other species. Secondly, the U.S. Fish and Wildlife Service has already determined the wolf is no longer warranted for listing under the ESA.

H.R. 424, introduced by Representative Collin Peterson calls for the Secretary of the Interior to reinstate two U.S. Fish and Wildlife Service decisions that delisted the gray wolf from the endangered species list in the Great Lakes Region and Wyoming, allowing the states to continue to manage the wolf populations, as they have successfully done for several years. Relisting the species undermined the good work that has taken place on the ground, and unnecessarily takes away the states right to manage wildlife populations within their borders. It also takes away the ability for livestock producers to protect their herds, putting their livelihood and economic stability in jeopardy. H.R. 424, is a bipartisan, common sense approach to management of species, which promotes cooperation between the USFWS, state wildlife agencies, and local stakeholders.

PLC and NCBA have been continually involved in ESA related activities. Our associations have submitted comments in partnership with our state affiliate organizations on the Gray and Mexican Wolves, Sage Grouse, Lesser Prairie Chicken, and the Black Footed Ferret to name a few. For the last two years, we have been fully engaged with the Western Governors Association and the ESA Initiative led by Governor Matt Mead of Wyoming. It is crucial for the livestock industry to be engaged to the fullest extent possible, in order to ensure that the nation's livestock producers, who provide food and fiber for the nation and world, are protected from harmful and unwarranted listings under the ESA.

PLC and NCBA applaud the efforts of Representative Peterson and appreciate the opportunity to provide our input on behalf of our members—the nation's food and fiber producers. We encourage members of the Committee to support this positive and proactive piece of legislation.

Sincerely,

*Dave Eliason, President,*  
Public Lands Council

*Craig Uden, President,*  
Nat'l. Cattlemen's Beef Assoc.

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ROCKY MOUNTAIN ELK FOUNDATION

July 13, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: July 19, 2017 Hearing on H.R. 424

Dear Chairman Bishop and Ranking Member Grijalva:

The Rocky Mountain Elk Foundation (RMEF) would like to thank you for scheduling the July 19 hearing on H.R. 424, the Gray Wolf State Management Act of 2017.

This bill would require the U.S. Department of Interior to reissue its 2011 final rule removing the gray wolf in the Western Great Lakes states from federal protection and the 2012 final rule removing the gray wolf in Wyoming from federal protection. Gray wolves have exceeded recovery goals in these states and no longer require federal protection.

RMEF expects a decision in the next few months from the Washington, D.C. Circuit Court regarding the appeal to the Interior Department's 2011 final rule. We are an intervenor in this case and are concerned the court may issue an unfavorable ruling, preventing the U.S. Fish and Wildlife Service from removing gray wolves in the Western Great Lakes states from the list of threatened and endangered species until they are deemed recovered throughout their entire historic range. This legislation would prevent further judicial review of the 2011 final rule. Passage of H.R. 424 in advance of the court's decision would make it a moot point. State man-

agement of wolves would be restored immediately and further litigation would be avoided. It is imperative Congress act without delay to pass this important legislation.

Gray wolves have had a significant impact on elk, deer, other wildlife and livestock. We remain confident wildlife agencies in these states, through public hunting and trapping, will be able to strike a balance for gray wolf and ungulate population management.

Thank you for the opportunity to comment on this important legislation.

Sincerely,

DAVID ALLEN,  
*President & CEO.*

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UNITED STATES CATTLEMEN'S ASSOCIATION

July 19, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of the United States Cattlemen's Association (USCA), thank you for holding the upcoming legislative hearing on Congressman Peterson's "Gray Wolf State Management Act of 2017," H.R. 424, taking place Wednesday, July 19th at 10:00 a.m.

USCA supports this practical and bipartisan legislation that removes the gray wolf from the List of Endangered and Threatened Wildlife and returns management of the gray wolf population in the Western Great Lakes District and Wyoming to state control. The current listing of the gray wolf leaves farmers and ranchers in those states without a legal avenue to protect their livestock from problem wolves. The states are best positioned to balance the long-term conservation of a viable gray wolf population with the interests of farmers and ranchers in protecting their livelihood. This bill prevents judicial activism from undermining the U.S. Fish and Wildlife Service's (FWS) science-based determination that the impacted states demonstrated suitable management plans of the gray wolf population.

Thank you again for holding the upcoming hearing and we look forward to helping this bill become law.

Sincerely,

KENNY GRANER,  
*President.*

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UPPER PENINSULA TRAPPERS ASSOCIATION

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

Thank you so much for holding a hearing on H.R. 424 and for expressing support for this bill. Here in the Upper Peninsula of Michigan we are over-run with wolves and our Department of Natural Resources can't do anything about it.

We had a couple of real rough winters that severely cut back our deer population and now the wolves are getting the survivors. Enough deer are gone in some areas that the wolves have turned to eating moose calves—and get them as soon as they are dropped. Our moose were getting close to allowing a limited hunt until our wolves exploded. Now they are struggling to survive!

Our Wolf Advisory Committee was told that when our wolves reached 200 animals that they could and would be delisted. Now they are just shy of 700 and we still can't get them delisted, so they can be managed by the State of Michigan!

We can't even imagine how people who have never even seen a wolf can have more say in wolf management than our very capable DNR here in Michigan.

Thanks again,

BOB STEINMETZ,  
*NTA Director.*

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WISCONSIN CATTLEMEN'S ASSOCIATION

July 17, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: H.R. 424—Gray Wolf State Management Act of 2017

Dear Chairman Bishop and Ranking Member Grijalva:

The Wisconsin Cattlemen's Association thanks the House Committee on Natural Resources for showing support and granting a hearing for H.R. 424—Gray Wolf State Management Act of 2017.

In the United States, the U.S. Fish and Wildlife Service holds complete control over the wolf management system. Once the gray wolf is delisted by the U.S. Fish and Wildlife Service, Wisconsin's Department of Natural Resources' plan will be reinstated. As a part of the wolf management plan, the Department of Natural Resources supervised a hunting and trapping season for the gray wolf. Under this system, all of the concerned parties for agriculture, environmental communities and government agencies have come together to formulate this plan. According to this plan, the state of Wisconsin has the capacity to home 350 wolves. The most recent count in the winter of 2016 shows our state hosts over 1,000 gray wolves and counting.

It is imperative we establish a management program to control the escalating wolf population in our state. Depredations of livestock in Wisconsin have escalated at a very rapid rate as our wolf population has grown. If this continues at its alarming fashion, we will witness Wisconsin's vibrant livestock industry, of which totals 88.3 billion dollars annually, perish before our eyes.

Agriculture has always been the leading industry in the state of Wisconsin. Being home to more than 10,000 beef operations and over 9,000 dairy farms with a total of animals exceeding 1.5 million head, it remains our goal to continue to provide a sustainable industry for future generations. It is imperative that the gray wolf population is under control to both protect our family farms and an industry that is so influential to the success of Wisconsin.

Thank you for your time and consideration of H.R. 424—Gray Wolf State Management Act of 2017.

Sincerely,

TERRY QUAM,  
*Legislative Representative.*

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WISCONSIN FARM BUREAU FEDERATION

July 18, 2017

Hon. ROB BISHOP, *Chairman,*  
Hon. RAUL GRIJALVA, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of the Wisconsin Farm Bureau Federation, I am writing to offer our thanks and support of H.R. 424, the Gray Wolf Delisting Bill. We appreciate the committee's support of this legislation by scheduling a hearing.

This legislation would reinstate the U.S. Fish and Wildlife Service's (FWS) order to remove the gray wolf in Wisconsin from the federal Endangered Species List. It also provides legal clarity for the gray wolf's status on the Endangered Species list.

Although wolf numbers in our state have long recovered past the point of needing federal protection, lawsuits from animal rights groups have kept this issue in a

back-and-forth legal limbo. The latest legal ruling means that Wisconsin farmers do not have the authority to protect their livestock from wolves, even as they are being attacked.

Wisconsin's most recent population estimation of almost 900 gray wolves far exceeds the state Department of Natural Resources' targeted management goal of 350. The number of wolves in our state also exceeds the USFWS criteria to federally delist wolves here. Wisconsin's management plan has successfully followed a science-based approach designed to maintain the prescribed wolf population of 350 since 2012.

The experts at the USFWS have determined Wisconsin's wolf population recovered to a level that no longer requires it to be listed as endangered. Management of the wolf population should therefore be restored to the Wisconsin DNR. Farmers should have the ability to protect their livestock from wolves during hunting or trapping seasons, or during the act of attacking livestock.

Thank you, again for your support of H.R. 424 and providing time for it to receive a hearing in the House Committee on Natural Resources.

Sincerely,

JAMES A. HOLTE,  
*President.*

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This is a major problem. It has been a problem for quite a while for my constituents, and it requires an immediate solution. The states, not the Federal Government, are best equipped to manage the gray wolf populations by balancing safety, economic, and species management issues. So, I urge my colleagues to vote this bill out of Committee, and I appreciate your time.

And I also would submit that the goal for the gray wolf that was originally established was 1,500 in Minnesota, and it is 2,423 as of last year. It was 100 in Wisconsin, it is currently 689. And it was 100 in Michigan, and it is currently 678. So, there is no justification for what they did, and these wolves have eaten a lot of sheep and cattle, and caused a lot of havoc. We need this fixed.

So, I thank you, Mr. Chairman, for the opportunity to be here, and hope that we can move this bill forward. I yield back.

[The prepared statement of Mr. Peterson follows:]

PREPARED STATEMENT OF THE HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA ON H.R. 424

Chairman Bishop, Ranking Member Grijalva, and distinguished members of the Committee, thank you for the invitation to speak in support of my bill, the Gray Wolf State Management Act of 2017.

In 2011, the U.S. Fish and Wildlife Service determined that gray wolves in Minnesota, Wisconsin, and Michigan no longer required Federal protections based on two main factors. First, gray wolf population numbers in each state remained well above established recovery goals set by the 1992 Recovery Plan for the Eastern Timber Wolf. Second, the wolf management plans established by each state provided for the long-term conservation of a viable wolf population in the region. While under state management from 2011 to 2014, gray wolf populations remained well above recovery goals.

At the end of 2014, a single judge sitting in a Washington, DC courtroom created a big mess by somehow coming to the conclusion that gray wolves in Minnesota, Wisconsin, and Michigan need Federal protection. This was done despite the scientific evidence conducted by the U.S. Fish and Wildlife Service that gray wolf populations recovered and thrived.

This judge's decision suddenly put farmers and ranchers throughout Minnesota, Wisconsin, and Michigan in a very difficult situation. Currently, it is illegal for a farmer to shoot a gray wolf that is actively attacking cattle or pets. When attacks occur, my constituents are forced to choose between following the law or protecting their livestock and livelihoods.

Wyoming went through a similar situation when a judge single-handedly relisted wolves in 2014. In March 2017, the D.C. Circuit Court of Appeals reversed that court decision and wolves are once again under Wyoming state management.

My bill returns management of gray wolves in Minnesota, Wisconsin, and Michigan from the Federal Government back to the states and doesn't allow for further judicial review. The bill also includes Wyoming to protect the state from further judicial over-reach. The courts have created a big enough mess already. But it is important for you to note that my bill does not prevent the U.S. Fish and Wildlife Service from relisting gray wolves in the future.

I would like to submit for the record supportive letters from several organizations and technical documents from the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources.

This is a major problem that requires an immediate solution. The states—not the Federal Government—are best equipped to manage their gray wolf populations by balancing safety, economic, and species management issues. I urge my colleagues to vote this bill out of Committee and I appreciate the Committee's time.

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The CHAIRMAN. I thank you for that. Those things you want added to the record, if you make sure the Clerk gets them, without objection they will be added.

You have obviously stated why we still need to regulate those wolves. You went past your goal, you have to stick at the goal. You go the 1,500, the 100, and you got it there. Sarcasm, sorry.

Mr. Olson, you are up.

**STATEMENT OF THE HON. PETE OLSON, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS**

Mr. OLSON. Chairman Bishop, Ranking Member Grijalva, and members of the Committee, thank you for having me here today and for exploring these important issues.

Texans value their open spaces. We value the land and the animals, large and small, on it. Texas is defined by that heritage, and it is a legacy I intend to leave to my children. And I daresay that an expert on your second panel, the Texas Comptroller of Public Accounts, my former Senator from Texas District 18, and my dear friend, Glenn Hegar, agrees and may be coaxed into giving a thumbs up.

We need to protect our endangered species, but we need to do it in a smart way. Arbitrary deadlines do not help. Neither do large, sweeping listings that threaten the communities and landowners who have been on that land since before the time that states like mine were created.

That is why I want to thank you for taking a look at my bill, H.R. 717, the Listing Reform Act. My bill is designed to be part of the solution through a suite of changes you all are considering.

First, my bill seeks to end arbitrary deadlines and make sure that the government acts as quickly as possible. As this Committee said in its 2014 report on ESA, and I quote, "Witnesses have testified that time frames provided currently under ESA are not feasible, and that groups are litigating not over whether species ought to be listed, but that the Federal Government can't comply with rigid 90-day or 12-month time frames set by ESA."

My bill also makes sure that de-listing petitions do not get punted to the end of the line. We have seen that with species like the grizzly bear, that de-listing petitions can drag on for years after a species is recovered and could be protected locally.

My goal with this bill is to allow the Federal Government to triage listing decisions. Let's work on the petitions in a way that makes sense for the species, not just on arbitrary deadlines that leave us open to lawsuits.

My bill also adds a new class of listing determinations. Under current law, the government may say that listing a species might be warranted, but has to be precluded for the time being. My bill expands on that, and says the listing of a species that might be threatened can be precluded if listing would lead to certain serious damages. But if new information comes in, or if the species is slipping toward endangered status, all bets are off. In the interim, states and locals can continue to manage their resources and protect species without the Federal hammer coming down.

I do not want to see species go extinct, but I want to achieve a balance that gives our wildlife the protection they deserve in a way that protects local communities too. We can do both. We can update the law without endangering our legacy for the next generation. I think that H.R. 717 is a step in that direction.

Thank you, Mr. Chairman, I yield back the balance of my time.  
[The prepared statement of Mr. Olson follows:]

PREPARED STATEMENT OF THE HON. PETE OLSON, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF TEXAS ON H.R. 717

Chairman Bishop, Ranking Member Grijalva, and members of the Committee, thank you for having me today and for exploring this important issue.

Texans value their open spaces. We value the land and the animals large and small we have on it. Texas is defined by that heritage, and it is a legacy I intend to leave to my children.

We need to protect our endangered species, but we need to do it in a smart way. Arbitrary deadlines do not help. Neither do sweeping listings that threaten the communities and landowners who have been on that land since before the time states like mine were created.

That is why I thank you for taking a look at H.R. 717, the Listing Reform Act. My bill is designed to be part of a suite of changes you all can consider.

First, it seeks to end arbitrary deadlines and make sure that the government acts as quickly as is *possible*. As this Committee said in its 2014 report on the ESA, "Witnesses have testified that time frames provided currently under ESA are not feasible, and that groups are litigating not over whether a species ought to be listed, but that the Federal Government can't comply with rigid 90-day or 12-month time frames set by ESA."<sup>1</sup>

It also makes sure that de-listing petitions don't get punted to the end of the line. As we have seen with species like the grizzly,<sup>2</sup> these de-listing petitions can drag on for years after a species is recovered and could be protected locally.

My goal with this bill is a chance for the Federal Government to triage listing decisions. Let's work through the petitions in a way that makes sense for the species, not just on arbitrary deadlines that leave us open to lawsuits.

The bill also adds a new class of listing determinations. Under current law, the government can say that listing a species might be warranted but has to be "precluded" for the time being. My bill expands on that and says that the listing of a species that might be threatened can be "precluded" if listing would lead to certain serious damages. But if new information comes in or if the species is slipping toward endangered status, all bets are off. In the interim, states and locals can continue to manage their resources and protect species without the Federal hammer coming down.

I do not want to see species go extinct. But, what I am trying to achieve is a balance that gives our wildlife the protection they deserve in a way that protects local communities too. We can do both. We can update the law without endangering our legacy for the next generation. I think H.R. 717 is a step in that direction.

<sup>1</sup>Endangered Species Act Congressional Working Group "Report, Findings and Recommendations" (2014).

<sup>2</sup>Natural Resources Committee, "Bishop: Grizzly Delisting Process Emblematic of Need for ESA Reform" (2017).

I thank you, Mr. Chairman, and yield back the balance of my time.

The CHAIRMAN. Thank you. And we will invite you when we are done with this panel to join us up here, where a spot is available. Mr. Gohmert, you are recognized for 5 minutes.

**STATEMENT OF THE HON. LOUIE GOHMERT, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. GOHMERT. Thank you, Mr. Chairman, and thank you for allowing me to speak on H.R. 2603, the SAVES Act.

First, I would like to thank the Committee for considering this legislation, and for the staff for all their hard work, and especially my dear friend, Representative Brian Babin, who has worked hand in hand with me on this vital bill.

This important legislation will remove duplicative and unnecessary regulation, reduce government waste, but, most important, it will enhance conservation.

At the time it was originally enacted, the Endangered Species Act's inclusion of non-native species was well-intentioned, as incipient international regulatory bodies, such as the Convention on International Trade in Endangered Species, which sought to encourage international protections, lacked political capital.

However, like many other aspects of the ESA, the inclusion of non-native species is outdated, overly burdensome, and, in fact, works against the very intent of the ESA. Instead of promoting conservation of these international species, this redundant regulation hampers significant non-governmental resources in our country genuinely seeking to enhance conservation of non-native endangered species through captive breeding programs.

By restricting interstate movement, listing non-native species under the ESA renders properly conducted captive breeding a near impossibility. According to the American Federation of Aviculture and their more than 5,000 members, if a collection manager in Missouri would like to bring a new bloodline into their macaw collection from a collection in Pennsylvania, current regulations are so onerous as to bring that plan to a full stop.

As the Zoological Association of America notes, conservationists often rely on the ability to move individual animals among collections to best maintain a robust captive population and to provide the best opportunities for successful breeding of endangered species. The onerous and prohibitive regulation of captive bred, non-native species under the ESA is counter-productive to conservation efforts.

Such issues are nothing new for the ESA. Time and time again in the modern world, we see the well-intentioned legislation pit the Federal Government against the very private citizens who have a vested interest in preserving endangered species.

Dr. Janice Boyd of The Parrot Fund states so clearly, "the ESA simply does not deliver conservation benefits to non-native species."

To give a personal example of what got my attention is when a Texan notified me, a conservationist, that he had a number of species, as a conservationist, allowed—they had to have Federal permit, Federal authorization, but they were notified that a breed of antelope they had from Africa was extinct in Africa. And, there-

fore, they were going to take over their land and move to have it listed as endangered in the United States.

So, the American conservationists all over the country that had bred thousands and thousands of this now-extinct breed sent hundreds of couples over to Africa to reinstate them. But because of the threat of the Federal Government to take over control of these conservationists' land, they had to get rid of all of those they had. Thus, once again, jeopardizing the very species that we were supposed to be protecting under this bill.

The unfortunate reality of the ESA is that it continuously burdens commerce and various industries. As the National Association of Aquaculture alerted me just a couple of weeks ago, the National Marine Fisheries Service posted a notice seeking public comment on a proposed listing of a non-native giant clam. Several giant clam species are in the marine aquarium trade, and U.S.-owned farms in the Pacific are successfully producing these animals. These clams should not be listed, and if they are, the farms producing them will decline as interstate movement and commerce will be catastrophically impacted. How is this promoting conservation of the species?

Removing unnecessary, outdated, and redundant regulatory authority over interstate movement of non-native, endangered species—and this is very important—that are alive—it is not going to help the trade of dead carcasses—but by removing them from the listing authority of ESA will enhance conservation, and that is why we are doing it. I yield back.

[The prepared statement of Mr. Gohmert follows:]

PREPARED STATEMENT OF THE HON. LOUIE GOHMERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS ON H.R. 2603

Good morning, and thank you for allowing me to speak on H.R. 2603, the SAVES Act. First, I'd like to thank the Committee for considering this legislation, staff, for all their hard work, and, especially, my dear friend Rep. Brian Babin who has worked hand in hand with me on this vital bill.

This important legislation will remove duplicative and unnecessary regulation, reduce government waste, and enhance conservation.

At the time it was originally enacted, the Endangered Species Act's (ESA) inclusion of non-native species was well-intentioned, as incipient international regulatory bodies, such as the Convention on International Trade in Endangered Species (CITES) which sought to encourage international protections, lacked political capital. However, like many other aspects of the ESA, the inclusion of non-native species is outdated, overly burdensome, and, in fact, works against the very intent of the ESA. Instead of promoting conservation of these international species, this redundant regulation hampers significant non-governmental resources in our country genuinely seeking to enhance conservation of non-native endangered species through captive breeding programs.

By restricting interstate movement, listing non-native species under the ESA renders properly conducted captive breeding a near impossibility. According to the American Federation of Aviculture and their more than 5,000 members, if a collection manager in Missouri would like to bring a new bloodline into their macaw collection from a collection in Pennsylvania, current regulations are so onerous as to bring that plan to a full stop.

As the Zoological Association of America notes, conservationists often "rely on the ability to move individual animals among collections to best maintain a robust captive population and to provide the best opportunities for successful breeding of endangered species. The onerous and prohibitive regulation of captive bred, non-native species under the ESA is counter-productive to conservation efforts."

Such issues are nothing new with the ESA. Time and time again in the modern world, we see the well-intentioned legislation pit the Federal Government against the very private citizens who have a vested interest in preserving endangered species. As the U.S. Association of Reptile Keepers asks: "How is making it illegal

to share education about ESA-listed and non-native spotted pond turtles by banning sale of domestically hatched turtles across state lines helpful to conservation of the species?" As Dr. Janice Boyd of The Parrot Fund states so clearly: "The ESA simply does not deliver conservation benefits to non-native species."

The unfortunate reality of the ESA is that it continuously burdens commerce in various industries. As the National Association of Aquaculture alerted me, just a couple weeks ago, the National Marine Fisheries Service posted a notice seeking public comment on a proposed listing for non-native giant clams. Several giant clam species are in the marine aquarium trade and U.S.-owned farms in the Pacific are successfully producing these animals. The clams should *not be listed*, and if they are, the farms producing them will surely decline as interstate movement and commerce will be catastrophically impacted. How is that promoting conservation of the species?!

Removing unnecessary, outdated, and redundant regulatory authority over interstate movement of non-native endangered species by removing them from the listing authority of the ESA will enhance conservation and reduce the burden these duplicative regulations have on the industry. Please join me in supporting this common-sense solution to conservation of endangered species.

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The CHAIRMAN. Thank you.

Mr. Huizenga, you are recognized for 5 minutes.

**STATEMENT OF THE HON. BILL HUIZENGA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. HUIZENGA. Well, thank you, Mr. Chairman, Ranking Member Grijalva, and members of the Committee, for holding this hearing. I actually had the privilege of being part of a working group a couple of years ago that looked at the ESA, and I can attest it does need reform.

My statement today is in support of common-sense legislation that makes the Endangered Species Act consistent with current law in other areas of government litigation.

H.R. 3131, the Endangered Species Litigation Reasonableness Act, reforms the ESA litigation process while enhancing wildlife preservation, improving government efficiency, and protecting taxpayer dollars.

For too long, litigating attorneys representing non-governmental entities have taken advantage of the Endangered Species Act, raking in millions of dollars in taxpayer-funded money. In many cases, attorney billing rates have climbed as high as \$400, \$500, or even \$750 an hour, with hardworking American taxpayers left footing the bill. In times of tight, fiscal budgets and escalating national debt, taxpayer dollars should be prioritized for the protection and recovery of species, not warrantless litigation.

Let's show taxpayers we respect their hard work by respecting their taxes. Records from the Dept. of Justice confirm the exploitation and abuse of the Endangered Species Act by special interest groups, including at least two attorneys who have accrued upwards of \$2 million in legal fees through ESA litigation. These exorbitant payouts, funded by the American taxpayer, only impede efforts to achieve the common goal of protecting species and habitats.

Now, how is this addressed in other areas of government litigation? Well, currently, the Equal Access to Justice Act, as was brought up by Mr. Gohmert earlier, limits the hourly rate for awards of fees to prevailing attorneys to \$125 an hour in most circumstances. Unfortunately, no such fee cap currently exists in ESA citizen suits.

Quite simply, this bill seeks to correct the current Endangered Species Act anomaly that incentivizes attorneys to spend time in court needlessly arguing, while earning inflated rates at taxpayers' expense. This bill would ensure that all Americans who sue the Federal Government are entitled to the same reasonable limits when it comes to being awarded taxpayer-funded attorney's fees.

Veterans, small businesses, and Federal benefit recipients go through this right now. And, frankly, Mr. Chairman, if it is good enough for our citizens, it ought to be good enough for our flora and our fauna. It is past time to apply this sensible cap to ESA suits, as well.

And, in fact, there was a discussion about this limiting access to the courts. There is no limit to access with this particular issue. This is a matter of stewardship, of the resources of hardworking taxpayers, in my mind. Rather than these hardworking taxpayer dollars lining the pockets of trial attorneys or special interest groups that have made a business by suing the Federal Government, these scarce resources would be directed toward making the law more efficient and effective for both species and people.

This would save millions of dollars, while not restricting access to the court system at all. If it truly is about protecting our flora and our fauna, then this reasonable reimbursement rate should be just fine. If it is about making money, well, I think you see the opposition.

Mr. Chairman, I strongly believe that this straightforward legislation is a much-needed common-sense update to the ESA, and makes the law work better for all parties. I would like to thank the Committee for scheduling this hearing on H.R. 3131. It is my hope that this Committee will soon continue to take further action on this important legislation.

With that, I yield back.

[The prepared statement of Mr. Huizenga follows:]

PREPARED STATEMENT OF THE HON. BILL HUIZENGA, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MICHIGAN ON H.R. 3131

Thank you Chairman Bishop, Ranking Member Grijalva, and members of the Committee for holding this hearing on much needed reforms to the Endangered Species Act.

My statement today is in support of common-sense legislation that makes the Endangered Species Act consistent with current law. H.R. 3131, the Endangered Species Litigation Reasonableness Act, reforms the ESA litigation process while enhancing wildlife preservation, improving government efficiency, and protecting taxpayer dollars.

For too long, litigating attorneys representing non-governmental entities, have taken advantage of the Endangered Species Act, raking in millions of dollars in taxpayer-funded money. In many cases, attorney billing rates have climbed as high as \$400, \$500, or even \$750 per hour, with hardworking American taxpayers left footing the bill. In times of tight fiscal budgets and escalating national debt, taxpayer dollars should be prioritized for the protection and recovery of species, not warrantless litigation.

Records from the Department of Justice confirm the exploitation and abuse of the Endangered Species Act by special interest groups—including at least two attorneys who have accrued upwards of \$2 million in legal fees through ESA litigation. These exorbitant payouts—funded by the American Taxpayer—only impede efforts to achieve the common goal of protecting species and habitats.

Currently, the Equal Access to Justice Act limits the hourly rate for awards of fees to prevailing attorneys to \$125 per hour in most circumstances. Unfortunately, no such fee cap currently exists for ESA citizen suits. Quite simply, this bill seeks

to correct the current Endangered Species Act anomaly that incentivizes attorneys to spend time in court arguing for inflated rates at the taxpayers' expense.

The bill would ensure that all Americans who sue the Federal Government, such as veterans, small businesses, and Federal benefit recipients, are entitled to the same, reasonable limits when it comes to being awarded taxpayer-funded attorney's fees.

Rather than taxpayer dollars lining the pockets of trial attorneys or special interest groups that have made a business by suing the Federal Government under ESA, these scarce resources should be directed toward making the law more efficient and effective for both species and for people.

I strongly believe that this straightforward legislation is a much needed common-sense update to the ESA that makes the law work better for all parties.

I would like to thank the Committee for scheduling this hearing on H.R. 3131. It is my hope that the Committee will soon continue to take further action on this important legislation.

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The CHAIRMAN. Thank you. I appreciate that. Once again, I will make the same offer to you, Mr. Huizenga. If you would like to stay here, I will ask unanimous consent that both Mr. Olson and Mr. Huizenga can join us on the dais.

Without objection, so ordered. Find a seat where there is no one sitting, and you are part of us.

I will now bring the second witness panel up here. I will ask the Clerk to change the cards around so you can see where you are supposed to be. We will introduce you in a second.

[Pause.]

The CHAIRMAN. All right. As you are getting settled in there, I would like to introduce this panel to you. I would ask the gentleman from Texas, Mr. Gohmert, if he would be happy or willing to introduce the Comptroller from the state of Texas to the Committee.

Mr. GOHMERT. Honored to do so. It is my pleasure to welcome to the hearing my friend, fellow Texan, and, just as importantly, a fellow Texas Aggie, the 36th Texas Comptroller of Public Accounts, Glenn Hegar.

Mr. Hegar worked diligently in Texas to increase government efficiency, while reducing government waste: knowledge that will prove vital to today's hearing.

Prior to becoming Texas Comptroller, Mr. Hegar served in the Texas House of Representatives and the Texas Senate. So, welcome, and thank you for joining us today.

The CHAIRMAN. Thank you.

Mr. GOHMERT. Thank you, Mr. Chair.

The CHAIRMAN. I appreciate you being here. Let me introduce Mr. Greg Sheehan, who is the Deputy Director of the U.S. Fish and Wildlife Service.

Mr. Sheehan, before you came back to this place, you were the Director of the Utah Division of Wildlife, Natural Resources. I am happy to have you back here, where you can testify that, even though it is 100 degrees in Utah, which is hotter than right here, we don't have the damn humidity, and there is such a thing as dry heat. It does make a difference.

Mr. SHEEHAN. Thank you, Mr. Chairman.

The CHAIRMAN. I appreciate that. Mr. Jeff Corwin, I recognize and welcome you here. You are a biologist and host of ABC's Ocean Trek. Thank you for joining us.

I am going to turn to the gentlelady from Wyoming, if she would like to introduce Mr. Willms, who is also on our panel.

Ms. CHENEY. Thank you, Mr. Chairman, for the opportunity to introduce our Wyoming witness today.

David Willms joined Wyoming Governor Matt Mead's staff in 2015 to advise on endangered species and other natural resource matters. Before joining the Governor's office, David worked on endangered species issues as a field biologist, and then as an attorney in both the public and private sector.

As a Senior Assistant Attorney General for the state of Wyoming, David represented the State Engineer's Office and the Game and Fish Department on issues involving myriad species from day-to-day wildlife management to complex matters involving Endangered Species Act implementation.

In private practice, David engaged in a broad-based natural resource practice, where he worked on issues related to the lesser prairie chicken, greater sage-grouse, black-tailed prairie dogs, and a host of other species.

As a field biologist, David has studied black-tailed prairie dogs and associated species in the Thunder Basin Region of northeast Wyoming, and his study area included both public and private land holdings.

And David has really been at the forefront of Governor Mead's efforts to provide a bipartisan approach to reforming the Endangered Species Act, and we are very pleased to have you here today and to have the Committee have the opportunity to hear about the great things we are doing in Wyoming.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you. And I will ask Mr. Tipton if you would be kind enough to introduce our final witness, Mr. Holsinger from Colorado.

Mr. TIPTON. Thank you, Mr. Chairman, and a pleasure to be able to introduce a fellow Coloradoan. I appreciate the opportunity to introduce Mr. Kent Holsinger, Founder and Managing Partner of Holsinger Law, LLC. It is a highly regarded law firm that specializes in land, wildlife, and water law.

Since 2003, Kent has built an exceptional client base, including leading water, corporate, non-profit, and trade associations in Colorado and the West. Prior to that, he did serve for 4 years in the Colorado Department of Natural Resources.

Mr. Holsinger, thanks for taking the time to join us here today.

The CHAIRMAN. Thank you, I appreciate that.

I am going to remind the witnesses that your written testimony is already part of the record. You are going to be given 5 minutes of oral testimony right now.

As I said to the other panel, you have to turn the mics on. When the timer hits 5 minutes, I will cut you off. Not trying to be rude, but we have a lot of you to go through.

With that, I will turn, first of all, to Comptroller Hegar for your 5 minutes for your testimony.

**STATEMENT OF THE HON. GLENN HEGAR, COMPTROLLER OF  
PUBLIC ACCOUNTS, STATE OF TEXAS**

Mr. HEGAR. Thank you, Mr. Chairman, Members. It is an honor and a privilege to be here. I appreciate the opportunity to share our experience in working on ESA issues, and comment on the bills before you.

I greatly appreciate the leadership of your colleagues in authoring these bills. As Comptroller, I serve as the chief steward of the state's finances, and administer a number of programs focused on the Texas economy. One of these programs works with stakeholders on practical, effective, science-based solutions to ESA challenges.

The ESA is a powerful law that can be inflexible and costly, with far-reaching effects on local economies. It can threaten agriculture production, oil and gas exploration, real estate development, and many other important economic activities.

States must be involved in an open, transparent process for reviewing and conserving species that also includes all stakeholders, both public and private. Engaging stakeholders is essential. This is especially true in states such as Texas, where more than 95 percent of all property is privately owned.

In 2007, as a State Senator, I played an instrumental role in creating a stakeholder-driven process to conserve listed species in the Edwards Aquifer, which is the primary water source for more than 2 million people in south central Texas. Use of this aquifer was a source of contention among economic and environmental interests for more than 50 years.

The program resolved the water dispute, while protecting the listed species in the aquifer. The Texas Legislature gave my current office initial ESA authority in 2009, and when I became Comptroller in 2015, I expanded our role, which now includes facilitating stakeholder and science-based collaborative programs, administering \$15 million to fund species research, and also holding the permit for the Texas conservation plan for the dunes sagebrush lizard, which is found in the Permian Basin. Fish and Wildlife cited this plan as part of its 2012 decision not to list the species.

Our work is done through open, transparent updates with stakeholders, work groups, compromising of landowners, industry, and environmental representatives, Fish and Wildlife, as well as the science community. We have identified three key areas for enhancing species conservation.

First, state involvement in leadership provides more effective outcomes. States have the relationships and the infrastructure to work with landowners, communities, and industries, and access to research data, monitoring initiatives, and other resources that can lead to better listing decisions. In Texas, many agencies have expertise on conservation issues and support research related to endangered species.

To ensure the Service can make the best informed decision, the ESA should require them to request and use all state agency information and participation, while implementing the law.

A second key area for enhancing species conservation is science-based decision. Often relatively little is known about the species, providing for a poor basis for decisions that can have major eco-

conomic consequences. The best way to ensure economically sound decisions are made is to ensure that science is good and current. Better decisions will have fewer impacts on state and local economies.

Our office mainly focuses on the game-changing species, those species that if listed endangered could involve significant economic impacts. A few examples of the diversity of regions and stakeholders involved, we funded \$3.6 million in research on 12 water mussel species. Listing of these species could affect the availability of municipal, industrial, and agricultural water use.

Because of the large number of economic sectors that could potentially be affected across the state if the monarch butterfly is listed, we funded over more than \$1 million in research to better understand the butterfly in Texas.

Also, we supported in the Permian Basin and the Eagle Ford shale, two important areas of the state and also the Nation, we have funded over \$2 million in research to identify the additional habitat areas for the species out there.

A third key area for enhancing species conservation is that economic consideration must be part of the decision. There is a link between environmental protection and economic success. Communities and businesses often rely on the same resources for economic growth, such as clean water, that the species needs to remain viable. As written, the ESA has very little space for economic consideration, and this omission is remarkable, in light of the potential impacts on our natural resources.

As the Services review species for listing, they must be able to take into account economic factors, especially when analyzing the scope, scale, and potential threats of these species. Engaging stakeholders is one of the best ways to gather this important economic data to make better informed decisions.

The bills before you will increase the ability of the ESA to be more flexible, and make sure these three key areas are obtained. I thank you for the opportunity to be here.

[The prepared statement of Mr. Hegar follows:]

PREPARED STATEMENT OF THE HON. GLENN HEGAR, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS ON H.R. 717, H.R. 2603, H.R. 1274, H.R. 424, AND H.R. 3131

#### INTRODUCTION

Thank you for this opportunity to share our views on these bills that offer improvements to the Endangered Species Act (ESA). I applaud the sponsors for their work toward solutions that can lead to a more science-driven process for species conservation and reduction in the regulatory burdens and costs for both landowners and businesses. I particularly appreciate the leadership of Representatives Gohmert and Olson in authoring two of these bills, which would be helpful not only to Texans, but for communities across the country.

In my role as Texas Comptroller of Public Accounts, I serve as the chief steward of the state's finances, acting as tax collector, chief accountant, chief revenue estimator, and treasurer for all of state government, in addition to administering a number of other programs focused on the Texas economy. One of these programs focuses on working with community leaders, businesses, landowners, and other stakeholders to encourage, develop and implement practical, effective, science-based solutions to ESA challenges in Texas.

The ESA is a powerful law that can be inflexible and costly, with far-reaching effects on local economies. It can threaten agricultural production, oil and gas exploration, real estate development, and many other important economic activities. It can involve burdensome and expensive requirements that may not have a significant nor a lasting beneficial impact on species conservation.

I believe states need, and must be involved in, an open, transparent process for reviewing and conserving species that includes *all* stakeholders, both public and private. Engaging stakeholders is essential to getting acceptance and buy in with respect to the ESA. This is especially true in states such as Texas, where more than 95 percent of all property is privately owned. Through collaborative work with other state agencies, universities, local communities, environmental organizations, and industry stakeholders, we have developed unique expertise in how state involvement in ESA issues can facilitate species conservation while maintaining local economic health and diversity.

With my time today, I'd like to share examples of our experience that highlight the value of state involvement in the ESA decision-making process, through the gathering of additional scientific data as well as information on economic impacts. The bills under review today expand the states' ability to become involved in ESA decisions, allowing for the use of more complete science in species reviews, and providing an opportunity to balance the requirements of species management with the unique economic needs of affected communities.

#### BACKGROUND

As a sixth-generation Texan from a farming family, I've spent much of my time in public service focused on natural resource and private property concerns. My direct experience with endangered species issues began before my current role as Comptroller. In 2007, as a State Senator, I created a stakeholder-driven process to develop a plan to conserve listed species in the Edwards Aquifer and maintained an active role to assist the stakeholders as they worked through an array of extremely difficult issues. This aquifer is the primary water source for more than 2 million people in south-central Texas, serving domestic, agricultural, industrial, and recreational needs. Use of this aquifer was a source of contention among these various interests for more than 50 years.

This stakeholder-driven process led to the successful creation of a Habitat Conservation Plan (HCP) that resolved the water dispute while providing protection for listed species in the aquifer. This program received a 2013 U.S. Fish and Wildlife Service (FWS) Partners in Conservation Award for its success in using collaboration and partnership to address endangered species and water-resource issues.

In 2009, the Texas Legislature gave the Comptroller's office its initial responsibilities in this area and when I became Comptroller in 2015, I expanded our agency's existing endangered species work. Our office currently works on ESA-related issues in three areas:

- **Assisting state and local agencies and stakeholders.** The Comptroller's office works with state agencies, local communities, private landowners, and businesses to facilitate science-based, collaborative solutions to ESA challenges. As part of this role, I serve as the presiding officer of our state's Interagency Task Force on Economic Growth and Endangered Species. The task force, created by the Texas Legislature in 2009, helps state agencies, local governments, communities, and other stakeholders work within ESA restrictions as efficiently and cost-effectively as possible.
- **Gathering new scientific data.** Our agency administers \$15 million in appropriations to fund research on little-known species under consideration for ESA listing. We contract with public state universities for scientific research on species being considered for protection under the ESA, thus filling gaps in our understanding of the species, while also ensuring that Federal regulators have the most complete and reliable information possible before making decisions that can have a profound effect on private property rights and local economies. This research is reviewed through open, transparent discussions and updates with stakeholder workgroups comprising of landowners, industry and environmental representatives, FWS, and the scientific community.
- **Managing conservation plans.** The Comptroller's office holds the permit for the Texas Conservation Plan (TCP) for the dunes sagebrush lizard, whose habitat includes portions of the Permian Basin, one of the Nation's most important oil and gas production areas. This 30-year program offers energy producers and landowners regulatory certainty in exchange for implementing specific conservation measures for the lizard. Since the TCP's implementation, fewer than 300 of 200,000 acres of its Texas habitat have been disturbed by program participants. FWS cited the TCP favorably in its 2012 decision not to list the species.

Working with stakeholders, state and Federal agencies and researchers, the Comptroller's office has achieved numerous successes that demonstrate the value of state input and meaningful participation in ESA programs. To date, our efforts include:

- Contributing scientific data that led to an FWS decision not to list the Sprague's pipit, a migratory bird that winters in large portions of south and west Texas with agricultural and oil and gas operations.
- Establishing a nationally recognized monarch butterfly research program to gather data on the species and its habitat across its migratory pathway in Texas. If the monarch butterfly is listed under the ESA, communities and numerous economic sectors across the country could be significantly affected.
- Developing a comprehensive research initiative to study the status of and threats to freshwater mussels in our state, and to identify conservation approaches to minimize the impact of a potential listing. If a listing of these species requires specific flows in our watersheds, our ability to develop and manage the state's water resources could be affected dramatically, threatening the availability of municipal, industrial, and agricultural water supplies during droughts.

Our efforts are intended to ensure FWS has the most complete information possible to make more informed decisions, while strengthening the role of stakeholders and the state in those decisions.

Through this work, we've identified three key areas for enhancing species conservation. These include: (1) a meaningful role for state involvement in aspects of ESA implementation to provide for more effective outcomes, (2) state-sponsored data gathering to ensure better science-based decision making, and (3) the need for a consideration of economic impacts in listing and conservation decisions. Through all of these areas, management, transparency, and fairness are absolutely critical.

#### STATE INVOLVEMENT AND LEADERSHIP PROVIDES MORE EFFECTIVE ESA OUTCOMES

Meaningful incorporation of state input to ESA programs, including close coordination and the use of state expertise, can greatly improve species outcomes. States have unique relationships and infrastructure in place to work with landowners, communities and industries effectively. Through their universities, they also have access to a wealth of research data, monitoring initiatives and other resources that can lead to better listing decisions.

In Texas, we work with a number of agencies that have expertise on conservation issues and support research and initiatives on species of concern. The Texas Parks and Wildlife Department, for instance, is charged with protecting our state's fish and wildlife resources. The Texas Commission on Environmental Quality oversees the management of state water quality. The Texas Department of Transportation funds research on species of interest that may be affected by road projects. The Texas State Soil and Water Conservation Board provides technical assistance to landowners and administers water quality and pollution prevention programs. The Texas General Land Office manages large swaths of state land and our coastal resources. The Texas Department of Agriculture works closely with agricultural producers and is the state's lead agency in regulating pesticide use.

All of these areas of expertise are critical when addressing species of concern.

To ensure FWS and the National Marine Fisheries Service (Services) make the best-informed decisions, the ESA should require them to request and *use* state agency information and participation while implementing the law. When working with states, the Services should not only work closely with state agencies responsible for fish, plant and wildlife resources, but also with other state agencies that have information relevant to species status and threats, or that may be affected by ESA actions. This coordination could occur directly with individual agencies or through the governor's office in each state.

State-led initiatives offer us a tremendous opportunity to enhance species conservation, but they won't succeed without proper management and oversight. Even if everything works properly, those who *want* the process to fail will attempt to derail any success. This is why proper management is an absolute must, especially in ensuring the best available science is used.

#### SCIENCE-BASED DECISIONS

At present, the bulk of time and resources devoted to ESA activities is directed toward the listing process itself. Improvements to the listing process, driven by new data from the states, will increase our ability to prioritize species for review and

lead to more informed decisions. It also could save time and resources needed for the development of appropriate conservation plans.

Currently, petitioners have to meet a *very* low bar in terms of species information needed to start the listing process. The Services must make their initial listing decision, called a 90-day finding, based on data submitted by the petitioner as well as readily available information. This lack of access to all relevant data can force the Services to spend scarce time and funds on species that ultimately may not require listing. And in a state such as Texas, again largely privately owned, a positive 90-day finding can limit landowners' ability to develop and use their property even if the species isn't ultimately listed.

Because of the large number of species under review for listing, an in-depth study of every species simply is not possible. Currently, decisions on species must be made on the "best scientific and commercial data available." But often, relatively little is known about the population, range, habitat and needs of these species, providing a poor basis for decisions that can have major economic consequences. In many instances, the available data is decades old. For instance, the last study on the Chihuahua catfish, a species slated for a listing decision in 2020, was conducted in the late 1990s. Do we want to make a decision on its status based on limited data from decades ago?

The best way to ensure economically sound decisions are made is to ensure the science is good and *current*. Better decisions will have fewer impacts on state and local economies, plus ensure a more positive result for the species in question.

As I noted earlier, the Texas Legislature appropriated \$15 million in the last 5 years to our office to support the study of species under review for listing in our state, gather new data and fill gaps in our understanding of these species. Our office has focused this funding mainly on "game-changing" species, those species that, if listed as endangered, could involve significant economic impacts to specific areas or important economic sectors. I'd like to provide the following examples of this work, as well as the diverse set of regions and stakeholders included in our programs. This work is being conducted openly and transparently, and research conducted with state funding is subject to rigorous peer review.

- Twelve different freshwater mussel species found in Texas river basins are under review for listing. We have allocated more than \$3.6 million to support research on their distribution and genetics, and on appropriate conservation tools. River authorities, agriculture groups, environmental organizations and energy producers are all involved in our stakeholder process to fine-tune the science and identify conservation opportunities.
- Because of the importance of Texas landscapes to the monarch butterfly along its migratory pathway, and the large number of economic sectors that may be affected if this species is listed, we funded more than \$1 million in research to increase understanding of the butterfly in Texas. Stakeholders involved in this working group include communities, scientists, agricultural interests, environmental groups, landowners and industry representatives.
- The spot-tailed earless lizard is found in the Permian Basin and the Eagle Ford shale, two important oil and gas producing areas in Texas. Our office has funded nearly \$2 million in research to identify additional habitat areas, learn more about threats to the species, and discuss potential conservation efforts that may be needed, in partnership with farmers, landowners, environmentalists, and the oil and gas industry.
- The Louisiana pine snake historically was found in longleaf pine forests in important timber-producing areas of east Texas. This snake, currently proposed for listing as threatened, has not been seen in Texas since 2012. We supported research to determine if any additional snakes could be found in the state. We are working closely with the state wildlife agency as well as the forestry industry to develop ways to manage habitat in the snake's historical range while still continuing timber activities.

Our job here is *not* to be scientists. Rather our job is to understand the ESA and the science required for it, as well as the species themselves, and to communicate effectively with researchers so we can make sure their work is useful to FWS in its decisions. Even so, the staff members managing our endangered species work do have scientific and legal backgrounds related to species conservation. Dr. Robert Gulley, director of our Economic Growth and Endangered Species Management Division, has a doctorate in anatomy with over a decade of work in biomedical research as well as more than a quarter-century of experience as an environmental attorney, including serving 7 years working on ESA cases as senior trial attorney

at the U.S. Department of Justice. In addition, his staff members have scientific and conservation backgrounds.

ECONOMIC CONSIDERATIONS MUST BE A PART OF THE DISCUSSION

I believe that you cannot make fully informed decisions regarding species without considering the economies of the regions where they live. There *is* a link between environmental protection and economic success. For example, communities and businesses often rely on the same resources for economic growth, such as clean water, that the species needs to remain viable. As the ESA is written, however, there is very little space for economic considerations. This omission is remarkable in light of the potential impacts on our Nation's resources.

In many voluntary conservation programs, stakeholders include economic considerations to create successful programs. In the case of the Edwards Aquifer program, for instance, a key portion of the program involved compensating farmers in the western range of the aquifer for restricting water use in times of drought, thus making more water available for the species. For the dunes sagebrush lizard, industry participation resulted in a plan that minimized oil and gas drilling and infrastructure in the lizard's habitat, while allowing for some continued activity for an industry that is vital to our state economy and state tax revenues.

To create similar successful outcomes under the ESA, as the Services review species for listing, they *must* be able to take into account economic factors, especially when analyzing the scope and scale of potential threats to a species. To adequately consider these threats, the Services should incorporate economic data on the *future* development of industries that may be affecting the species, and take into account any potential changes to industrial technology that may decrease the impact on the species. Services staff often do not have significant expertise in these economic areas. Engaging stakeholders is one of the best ways to gather this important economic data to make more informed decisions.

The consideration of economic impact in critical habitat designations is an example of how the ESA can effectively take into account economic impacts. An area can be excluded from critical habitat designation if it is deemed the benefits of exclusion outweighs the benefits of designating the area. Economic impacts is a part of the basis for this decision. This consideration of economic impacts should be included in listing decisions, especially in cases of threatened designations where the ESA already provides the ability to craft flexible approaches to provide a benefit to the species.

BILLS WILL ENCOURAGE CONSERVATION

The bills before you today incorporate many of these concepts I've discussed—state coordination, transparency, usage of more complete data, an open process, reduced regulatory burdens, and consideration of economic impacts. I believe they are very important bills and an important step toward more effective species conservation.

The Listing Reform Act by Representative Olson (H.R. 717) provides time for science-based decisions and acknowledges the importance of economic considerations. Giving the Services flexibility in reviewing petitioned species rather than requiring adherence to a strict and arbitrary deadline allows them to make better use of limited resources and work first on species truly in need. This flexibility also gives the Services additional time to receive more complete data from the states and other parties to give them a more complete view of the status of the species. And allowing for consideration of significant, cumulative economic effects that could result from a threatened listing decision or designation of critical habitat provides opportunities to further engage with industry and other stakeholders in developing effective conservation programs for species in important economic areas.

Representative Gohmert's SAVES Act (H.R. 2603), de-listing non-native species, takes into account stakeholder input and economic considerations to provide additional opportunities for species conservation, reduces the Federal regulatory burden on those working to conserve species, and allow for continued economic activities in our local communities.

Representative Newhouse's bill, the State, Tribal and Local Species Transparency and Recovery Act (H.R. 1274), directing the Services to incorporate state, local and tribal data in its decisions is key to opening up the process and ensuring more complete data. The Gray Wolf State Management Act of 2017 by Representative Peterson (H.R. 424) is another bill emphasizing the importance of state involvement in managing species within their borders.

Finally, while Texas handles a large amount of litigation, our office isn't heavily involved in this process. Even so, we support efforts such as the Endangered Species Litigation Reasonableness Act (H.R. 3131) by Representative Huizenga to bring

more equity into the litigation process. The proposed changes should minimize litigation by ensuring attorney's fees are only awarded to those parties who prevail in the litigation.

IN CLOSING

These bills and my comments today address several significant changes that can be made to improve the ESA's effectiveness, but it should only be part of a larger effort to modernize a statute that has received too little congressional reform over the years. Many groups across the country, including the Western Governors' Association, have developed proposals to encourage proactive, voluntary science-based species conservation and ESA implementation. In general, these recommendations align with our thoughts on how to improve the ESA. I encourage you to review their recommendations and incorporate them in future legislation as you continue your work on this very important issue.

My office will remain engaged in working with stakeholders and continue funding research on species to develop collaborative, transparent solutions. We are available as a resource to you and your staff as you continue your work. I look forward to working with you as you move forward in making the ESA a more workable and effective tool for species conservation, while still allowing economic opportunity for our communities and citizens.

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QUESTIONS SUBMITTED FOR THE RECORD TO GLENN HEGAR, COMPTROLLER OF  
PUBLIC ACCOUNTS, STATE OF TEXAS

**Questions Submitted by Rep. Bishop**

*Question 1. As Texas has demonstrated, states are well positioned to effectively keep species stable and off the endangered and threatened list. However, the Federal Government has often kept states away from the table in species designation process.*

*1a. How does the Texas program identify which species to preserve?*

Answer. The Economic Growth and Endangered Species Management Division (EGESM) of my office is responsible for our species research program. The focus of this program to date has been on those species currently under review for potential listing by the U.S. Fish and Wildlife Service (the Service). Division subject matter experts review scientific literature, U.S. Fish and Wildlife Service information including that on the Environmental Conservation Online System (ECOS), existing listing petitions and other listing documents, and similar documentation to understand the data available on each species, the extent of data gaps, threats to the species, and potential effectiveness of conservation measures to ameliorate those threats. EGESM also considers the economic impact of a possible listing. In establishing our priorities for funding species research, EGESM consults with the Texas Parks and Wildlife Department, other state agencies, the Service, independent university experts, both in and outside of Texas, and stakeholders.

In identifying species, EGESM staff assess the potential impacts of a listing. The factors considered in this review include, but are not limited to, the overlap of species habitat with areas of economic activity, identification of industry sectors affected by a potential listing, consultation with industry and related stakeholder working groups, the scope of natural resources potentially affected by a listing, and the ability of conservation measures to reasonably ameliorate the threats.

Through this analysis, the program is able to identify those species that if listed, could have a significant economic effect on Texas citizens, business and communities. These "game-changer" species with a large potential economic effect are priorities to develop additional research and science based conservation programs to preserve the species.

*1b. Do you believe that programs like that of Texas in other states would help keep species healthy and off the list?*

Answer. I do believe that programs like in Texas can be successful in keeping species healthy and off the Federal list of endangered species. The Texas Conservation Plan (TCP) is an exemplary model of such a successful program. There, the listing of the species was avoided through an agreement by the oil and gas industry operating in the energy-rich Permian Basin, in coordination with the Comptroller's office (CPA), to implement voluntary conservation measures under a Candidate Conservation Agreement with Assurances (CCAA). CPA holds the permit for the CCAA and oversees the implementation of the TCP. A similar CCAA was established in New Mexico with the oil and gas industry in that state. The TCP played a large role in the Service's decision not to list the dunes sagebrush lizard.

CPA is currently developing similar programs to either avoid listing or minimize the economic impacts of any species listings with respect to four Central Texas mussel species and the spot-tailed earless lizard, found in the Permian Basin, Eagle Ford shale and agricultural areas in the state. These programs center on funding strong science to fill extensive gaps in the scientific knowledge regarding these species. CPA is engaging diverse stakeholder communities in open, transparent, collaborative processes to evaluate the scientific data and to see if buy-in is possible for any voluntary conservation programs that may be needed to avoid listing or minimize the impact of any listing that is appropriate.

As described in my testimony, as a State Senator, I was very involved in the creation and oversight of a program that utilized this open, transparent approach to resolve a 50-year old contentious dispute over the use of the Edwards Aquifer while protecting the listed species that depend on the water from that aquifer.

I am confident that similar programs, in conjunction with research funding and the reforms considered by your Committee, can be successful in balancing the needs of the species with the need for a vibrant economy in Texas and elsewhere. Also, in appropriate instances, avoiding the need to list species as Texas and New Mexico were able to do with respect to the dunes sagebrush lizard.

*Question 2. Mr. Olson's Listing Reform Act allows for threatened species designations to be precluded due to economic factors, and allows for reconsideration of precluded threatened species listings only if the Secretary determines there is a danger of species extinction, or if the Service receives a new petition that includes alternative actions that can be taken to avoid the economic impacts of listing.*

*2a. Should economic factors be considered in threatened species designations, and if so, why?*

Answer. First, I believe that as a general rule, listing decisions should be based solely on the science. However, economic factors should be considered and, in limited circumstances, where the economic consequences of listing outweigh the benefits of listing, reflected in the listing decision. Mr. Olson's bill sets out a reasonable approach to economic considerations in the listing process. It recognizes that, unlike an "endangered" determination which requires a finding that the species is in actual danger of extinction, a determination that a species is threatened requires a finding only that the species may become endangered in the future. Under such circumstances, a reasonable inquiry into the economic impacts of listing is appropriate. If the economic benefits of listing outweigh the benefits of listing, Mr. Olson's bill does not over-ride the determination that listing is warranted. Instead, it simply precludes listing until such time that the species is endangered or a petition is filed mitigating the economic impacts.

Beyond the reasonableness of the approach, I support Mr. Olson's bill because, although the status of threatened species is less imperiled than that of an endangered designation, the economic consequences of both determinations may be the same. Under current Service regulations, absent promulgation of a 4(d) rule, threatened species are subject to the same requirements as endangered species with respect to Sections 7 and 9 of the Act.

*2b. From your perspective, would the ability to preclude threatened species listings due to economic factors facilitate higher-quality listing decisions that benefit both species and our Nation?*

Answer. The ability to preclude threatened species listing due to economic factors can allow for a more reasonable balance between species protection and economic growth. Precluding species can also provide additional flexibility in developing conservation programs for species of concern through a non-regulatory and voluntary environment. Candidly, I am somewhat concerned, however, that because the scientific boundaries between threatened and endangered are obscure, the Service may decide to avoid the requisite economic considerations by finding a species to be endangered.

#### Questions Submitted by Rep. Pearce

*Question 1. How does the science produced by your universities and other state agencies compare to the science that the Fish and Wildlife Service would otherwise be forced to rely on?*

Answer. The Service often relies only **on existing** research—some current, some not. In many instances, the research was not designed to answer the specific questions of the listing process. The funding administered by CPA provides science that is more current and complete than what the Service might otherwise have available to use in make listing decisions.

Our research is focused on filling the gaps in understanding of species and provide data specifically designed to inform the Species Status Assessment and listing process. CPA, in designing and funding the science, consults with the Texas Parks and Wildlife Department, other state agencies, independent university experts, the Service, and stakeholders. Independent technical advisory panels are used during the course of the research to ensure that sound approaches and methods are being employed. Independent peer review of the science is commonly used to ensure the validity of the research.

*Question 2. You mentioned in your testimony that you are administering \$3.6 million to support research "12 different freshwater mussel species." You also claim the research is on their "distribution and genetics, and on appropriate conservation tools."*

- *Is one of those species the Texas Hornshell mussel (*Popenaias popeii*)?*
- *Can you forward any science you have on this species to my office?*

Answer. The Texas hornshell is one of the species funded by CPA. Scientific information from my office has been forwarded to the office of Representative Pearce. This information includes a final report on research by Texas A&M University on the Texas hornshell and other mussels in west and central Texas, and a final report on research by Texas State University on the Texas hornshell and other aquatic species in the Delaware River in Texas.

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The CHAIRMAN. Thank you. I appreciate that. We will now turn to Mr. Sheehan for your 5 minutes. Welcome to the Committee, welcome back to Washington, welcome to the bureaucracy.

[Laughter.]

The CHAIRMAN. You have 5 minutes.

**STATEMENT OF GREG SHEEHAN, DEPUTY DIRECTOR,  
U.S. FISH AND WILDLIFE SERVICE**

Mr. SHEEHAN. Thank you. Good morning, Chairman Bishop, Ranking Member Grijalva, and members of the Committee. My name is Greg Sheehan, and I am the Acting Director of the U.S. Fish and Wildlife Service. I appreciate the opportunity to testify before you today on five bills to amend the Endangered Species Act.

As I said, I am a new appointee of the Fish and Wildlife Service, but I have been engaged in the ESA issues for many years. I have spent the past 25 years with the state of Utah in natural resource and wildlife management, with most of the last 5 years of my career as the Director for the Utah Division of Wildlife Resources.

I partnered with the Fish and Wildlife Service through my participation on the Joint Federal-State Task Force on Endangered Species Act Policy. Additionally, I served as Chairman of the Threatened and Endangered Species Policy Committee for the Association of Fish and Wildlife Agencies.

As the Director of our state wildlife agency, I was involved in actions with many species, including desert tortoise, California condor, sage-grouse, gray wolves, and Utah prairie dogs, among others.

The ESA is one of our Nation's most important wildlife conservation laws. Its purpose is to conserve threatened and endangered species and their ecosystems. The law directs the Service to use the best-available science, scientific and commercial information, to determine whether a species needs to be listed to identify and address the threats to the species, and to facilitate the recovery of the species.

I find it helpful to think of the ESA as a hospital, where critically ill patients are admitted in anticipation of recovery. In this hospital, there has been success in keeping the ESA patients from dying, but not so much on getting them discharged in healthy condition. Therefore, we need to step up our efforts to quickly diagnose the problems, define recovery actions, and get those patients back out into society.

In the case of these ESA patients, that means getting them back under state management authority. While there are those who believe otherwise, the ESA, the hospital was never intended to keep all patients indefinitely. Just as is the case with any hospital, there are limited resources to manage the patients, and we need to focus those resources on those that are in the greatest need, not those who are recovered and simply waiting to be released.

Success of the ESA will ultimately be defined by the number of patients leaving the hospital, not the number going in.

While the ESA has had success since its passage 43 years ago, there have been challenges, as well. My goal, as Acting Director of the Service, is for the organization to be a better neighbor and partner to the public and states.

It is essential that we forge collaborative partnerships with landowners, states, tribes, territories, local governments, and industry. The resources brought to the table by these partners is fundamental for achieving the conservation objectives of the ESA. It is time that we recognize those efforts and rebuild the collaborative spirit of conservation that has restored most all fish and wildlife species in America during the past 120 years.

Additionally, we must ensure balanced conservation stewardship, while engaging our committed industry partners, including power, water, energy, timber, farmers, and others, to ensure that ESA regulatory requirements do not overtake our ability to be strong and grow as a nation.

There are three tools in our toolbox to achieve these goals.

First is our ability to seek out and retain top-notch people on the ground who have the inter-personal skills and ability to work with landowners, industry representatives, local governments, tribes, and state agencies. There are many on the U.S. Fish and Wildlife Service team that have those skill sets, and who can succeed at this heavy lift.

Second, we need effective agency policy. This policy is fundamental in creating a defensible rule book that all can use, as we aspire to achieve the goals of species and ecosystem conservation, as well as societal growth and its associated demands on natural resources.

The third tool available is the set of legislative authorities created by Congress. The laws you craft identify the sideboards that we must operate within to successfully implement the ESA and, hence, work toward the conservation of fish, wildlife, and plant species in America.

The bills before the Committee today seek to improve the implementation of the ESA and, in general, the Administration supports them. My written testimony contains comments on each of the bills. We would appreciate the opportunity to meet with the

Committee and bill sponsors to discuss technical modifications as the bills work through the legislative process.

We are committed to making ESA work for the American people to accomplish its purpose of species conservation. I am happy to answer any questions you have, and thank the Committee for this opportunity to testify today.

[The prepared statement of Mr. Sheehan follows:]

PREPARED STATEMENT OF GREGORY SHEEHAN, ACTING DIRECTOR, U.S. FISH AND WILDLIFE SERVICE ON H.R. 424, H.R. 717, H.R. 1274, H.R. 2603 AND H.R. 3131

#### INTRODUCTION

Good morning Chairman Bishop, Ranking Member Grijalva, and members of the Committee. I am Greg Sheehan, Acting Director for the U.S. Fish and Wildlife Service (Service). I appreciate the opportunity to testify before you today on five bills to amend the Endangered Species Act of 1973 (ESA). I have spent most of the last 5 years of my career as the Director for the Utah Division of Wildlife Resources, where I was very involved in the implementation of the ESA from the state perspective. I dealt with individual species issues in Utah and was involved in broader policy discussions through the Western Governors' Association and my participation on the Joint Federal/State Task Force on Endangered Species Act Policy. I was also Chair of the Threatened and Endangered Species Policy Committee for the Association of Fish and Wildlife Agencies (AFWA). I am hopeful that those experiences will give me a solid framework from which to serve in my new role as Acting Director of the Service.

Each of the bills—H.R. 424, H.R. 717, H.R. 1274, H.R. 2603, and H.R. 3131—is focused on improving implementation of the ESA to reduce or eliminate certain burdens on the public and to help achieve the ESA's statutory purpose to conserve threatened and endangered species and their ecosystems. In general, the Administration supports these bills and the Service welcomes the opportunity to work with the Committee to address some recommended technical modifications.

The Administration is committed to making the ESA work for the American people. While the ESA has had some success since its passage over 40 years ago, challenges still remain. Implementation of the law regularly generates controversy among private landowners, regulated industries, and environmental advocates alike. In particular, in Western states, the law and certain species have become lightning rods for intense disagreement. My goal as the Acting Director of the Service is for the organization to be a better neighbor and partner to the public and the states. The Federal role under the ESA in preventing extinctions and facilitating recovery is critical; but states and the people on the ground who have long been stewards of the land are in the best position to be the primary caretakers of species over the long term.

I look forward to discussing these issues and working with the Committee to address them in these and other legislative efforts.

#### BACKGROUND

The ESA is one of our Nation's most important wildlife conservation laws. It is implemented jointly by the Service and the National Marine Fisheries Service (NMFS, together, "the Services"). The law's stated purpose is to provide a program and means for the conservation of threatened and endangered species and the ecosystems upon which they depend. When a species is designated as threatened or endangered—or "listed" under the ESA—it is in urgent need of help. The law directs the Services to use the best available scientific and commercial information to determine whether a species needs to be listed, to identify and address the threats to the species, and to facilitate the recovery of the species.

Successes under the ESA almost always involve partnerships between the Service and others—states, tribes, territories, local governments, private landowners, and other Federal agencies. Partnership efforts guided by the Service have led to several recent decisions to de-list species due to recovery. These include the Yellowstone population of grizzly bear, Louisiana black bear, Oregon chub, Delmarva fox squirrel, Virginia northern flying squirrel, Modoc sucker, island night lizard, and brown pelican. Conservation partnerships have also prevented the need to list a number of species that were once in trouble, including the New England cottontail, dunes sagebrush lizard, and arctic grayling in Montana.

Despite these successes, there are also challenges and frustrations with implementing the Endangered Species Act. I find it helpful to think of the ESA as a hos-

pital, where critically ill patients are admitted in hopes of recovery. We have done a pretty good job of keeping those patients from dying, but not so well on getting them discharged in healthy condition. Therefore, we need to step up our efforts to quickly diagnose the problems, define recovery actions, and get those patients back out into society. The ESA hospital was never intended to keep all patients indefinitely. I want the Service and our partners to be more successful in recovering listed species so that the ESA is not needed for their protection.

Making the Service more successful in achieving species recovery is a multifaceted endeavor:

1. A collaborative partnership with states, tribes, territories, local governments, and landowners is essential for achieving the conservation objectives of the ESA. The Service has made some important investments in this area, including through our development of policy and tools for voluntary conservation agreements, the establishment and support of a Joint Federal/State Task Force on Endangered Species Act Policy and our support and active participation in the Species Conservation and the Endangered Species Act Initiative of the Western Governor's Association. We will build on those efforts to ensure we have a strong foundation of trust and partnership as we continue to seek to improve implementation of the ESA.
2. Our ability to succeed in conservation efforts is also dependent on our people on the ground, who need to have the skills and ability to work with landowners and agencies on solutions that serve the needs of both the species and the landowners. Our Partners for Fish and Wildlife program and Joint Ventures programs have been great models for that approach, and I would like to see those kinds of relationships with landowners and local communities reflected more broadly throughout the Service, including in our endangered species recovery work. The Service has made progress in recent years, but there is still more work to do.
3. Being more successful in species recovery also requires effective and creative agency policy. I fully support the recent direction from Congress through the appropriations process to focus more intently upon the mandatory duties associated with recovery of listed species—timely development of recovery plans, reviews every 5 years of the status of listed species, and timely rulemaking to down-list or de-list species that are recovering. There are many competing demands for our limited time and energy, and we must have clear agency policy that establishes our priorities and encourages conservation partnerships.
4. Our legislative authorities are clearly the backbone for successful implementation of the ESA and recovery of listed species. The bills under consideration by this Committee are all focused on helping improve implementation of the Act, and we look forward to working with the Committee on these measures as they move through the legislative process.

To that end, we offer the following comments on the individual bills under consideration today:

**H.R. 424—Gray Wolf State Management Act**

H.R. 424, the Gray Wolf State Management Act, would require the Service to re-issue the 2011 Western Great Lakes population de-listing rule and the 2012 Wyoming population de-listing rule. It would also insulate both rules against judicial review. Each of these de-listing rules was based on the best available science, was consistent with the requirements of the ESA, and reflected extensive work with the relevant states and a deliberative and lengthy public comment process. The legislation would not legislatively de-list these wolf populations, rather it would reinstate science-based rules that went through the public rulemaking process.

Earlier this year, the Federal Government prevailed in litigation challenging the 2012 Wyoming de-listing rule, and has accordingly de-listed that population and transitioned management to the state. This legislation would not, in the Service's view, affect our recent rule that reaffirmed the de-listing of the Wyoming population.

The Service determined that the Western Great Lakes gray wolf population has exceeded recovery goals and is biologically recovered. Our de-listing rule was challenged and vacated, and that decision is currently under appeal.

**H.R. 717—Listing Reform Act**

H.R. 717, the Listing Reform Act, would allow the Service to prioritize petitions other than by the order received, except that listing petitions would not be prioritized over de-listing petitions. The legislation would also remove the 90-day and 12-month finding deadlines for petitions. Finally, it would add an option for

warranted but precluded findings for petitions to list species as threatened if the listing or critical habitat designation would result in significant cumulative economic impacts.

The provision allowing the Service to prioritize petitions based on need would give the Service more flexibility to implement the ESA. We believe that removing the deadlines for reviewing petitions would give the Service even more flexibility and reduce the potential for future litigation.

The Service would, however, like to work with the Committee regarding the bill's proposed warranted but precluded determination on petitions for threatened listings to better understand how economic impacts should be appropriately considered.

**H.R. 1274—State, Tribal, and Local Species Transparency and Recovery Act**

H.R. 1274, the State, Tribal, and Local Species Transparency and Recovery Act, would require all data used to make a listing determination to be made available to affected states prior to making a listing determination. It would also modify the term “best scientific and commercial data available” to include all data submitted by states, tribes, and local governments.

The Service has worked to address concerns regarding transparency of the data used to make listing determinations, but recognizes that complications remain. The Service would recommend modifying this legislation to require the Service to consider all data submitted by states, tribes, and local governments, rather than automatically deeming that data to be the “best scientific and commercial data available” as currently required in the bill. Defining that term to automatically include data submitted by states, tribes, and counties, without regard to its quality, would be a significant departure from scientific integrity standards.

**H.R. 2603—Saving America’s Endangered Species (SAVES) Act**

H.R. 2603, the Saving America’s Endangered Species (SAVES) Act, is bipartisan legislation that would prevent non-native species that are found in the United States from being treated as federally threatened or endangered. We understand the primary intent of this legislation is to reduce duplication in the regulation of non-native species in the United States. The Service notes that the ESA and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) serve different purposes and species, and would welcome the opportunity to discuss this further. We also understand that a secondary goal of the legislation is to reduce regulation of the interstate movement of non-native species in the United States. The Service currently authorizes activities with non-native captive-bred wildlife that benefit the conservation of listed species. Based on our initial analysis, we note that bill as introduced could create enforcement challenges related to wildlife trafficking. We welcome the opportunity to work with the sponsor and Committee to examine these efforts.

**H.R. 3131—Endangered Species Litigation Reasonableness Act**

H.R. 3131, the Endangered Species Litigation Reasonableness Act, would subject awards to prevailing parties in ESA citizen suits to judicial code standards. This legislation would in effect limit attorney’s fees for successful citizen plaintiffs in ESA cases against the Federal Government. The time and cost of litigation is one of the significant challenges we face in implementing the ESA. As currently drafted, it is unclear whether the legislation would require that all prevailing fee awards be paid through annual appropriations, rather than having the option to pay through the Judgment Fund as is current law. The Service would welcome the opportunity to work with the Committee to clarify this aspect of the legislation.

CONCLUSION

The Service supports the goals of these bills and welcomes the opportunity to work with the Committee to address some technical modifications. The Service is committed to making the ESA work for the American people to accomplish its purpose of conserving threatened and endangered species and protecting the ecosystems upon which they depend. While the ESA has had some success since its passage over 40 years ago, there are greater opportunities ahead. I look forward to discussing these issues and working with you to address them in these and other legislative efforts.

QUESTIONS SUBMITTED FOR THE RECORD TO GREG SHEEHAN, ACTING DIRECTOR,  
U.S. FISH AND WILDLIFE SERVICE

**Questions Submitted by Rep. Bishop**

*Question 1. Well-funded environmental groups that engage in litigation against the Department have the resources, including taxpayer-funded grant money, to litigate unnecessary matters as a means to increase their attorney's fees awards and to boost fundraising efforts. Would there be more resources, particularly in terms of staff time and focus, for species conservation efforts if there was a decrease in the amount of unnecessary litigation against the Department?*

Answer. When the Service dedicates its time and budget to defending prior court decisions, it redirects resources away from our conservation mission, which detracts from the Service's ability to prioritize and align our work with the most important conservation priorities as we see them.

*Question 2. The Listing Reform Act allows for threatened species designations to be precluded due to economic factors, and allows for reconsideration of precluded threatened species listings only if the Secretary determines that there is a danger of species extinction, or if the Service receives a new petition that includes alternative actions that can be taken to avoid the economic impacts of listing. From your perspective, would the ability to preclude threatened species listings due to economic factors facilitate more comprehensive listing decisions that benefit both species and our Nation?*

Answer. The ESA currently directs the Service to make listing decisions based solely upon the best available scientific and commercial information regarding the status of the species and the threats that it faces, after considering protective efforts. An economic analysis done during the listing determination process would provide a comprehensive assessment of the economic impacts resulting from a potential listing. Should Congress decide to amend the ESA to include economic considerations as part of listing criteria, it would create a more comprehensive review that the Service would then assess and evaluate petitions accordingly. At this time, without further clarification and definition, it would be difficult for the Service to implement the bill as it is currently written.

*Question 3. State-generated data and management expertise are utilized by states in species management efforts before listing and after de-listing. Such state-generated information is a valuable resource for the Federal Government, and use of it could alleviate some pressure upon agency resources and allow for more thorough and improved species decision-making processes. Yet, these resources have not been consistently utilized in the past. Furthermore, the data that the Federal Government does use in species decisions is not shared with the states, nor is it transparent. The State, Tribal, and Local Species Transparency Act would require greater transparency and consideration of state-generated data. How can the consideration of state, tribal, and local data assist the Federal Government in its decision making?*

Answer. The Service agrees that state-generated information is a valuable resource. Often, the states are among the best sources of such information, particularly with respect to game and other actively managed species. In many cases, state partners are the only entities with information on certain species. State partners are often monitoring a wider spectrum of species than the Service and often are our first source of information about a species.

The Service recently modified our petition regulations to ensure that states are formally notified of petitions in a timely manner and their data available to the Service to place petitions in proper context as the Service develops our 90-day finding. If we proceed to a status review (which could lead to a listing proposal), the Service actively solicits all available information, including state, tribal, and local data formally through Federal Register notices, as well as informally through regular interactions with states, tribes, and other contacts. If a listing proposal is made, public comment and additional data are solicited at that time as well. Additionally, grants through the Cooperative Endangered Species Conservation Fund are provided to states, and the resulting information from those grants assists in our decision making. Such information is often essential in determining if a species warrants listing or has recovered to the point of de-listing or down-listing.

*Question 4. The program in Texas, and similar efforts in other states, have generated high-quality data and successfully kept species off of the list. Such information is valuable for Federal decision making and could demonstrate how best to manage species in specific areas.*

*4a. How will the Federal Government support state efforts to contribute such data at the Federal level?*

Answer. As noted above, we formally and informally solicit information from state partners during our assessment process. As the management authority for most non-federally listed species, the states are often the primary source of information on these species. We recognize that better scientific information leads to better decision making under the ESA and appreciate the significant contributions made by states to improve the quality of data on the species that are under consideration for ESA decisions. Our work to make all petitions publicly available upon receipt, to develop multi-year listing work plans, and to strategically prioritize our petition work so that species for which additional information could affect the petition finding are put later in the queue, are all designed to support state efforts to contribute data to inform our work at the Federal level.

*4b. How will the Department support state efforts to preserve species and keep them off of the list?*

Answer. The Department and the Service believe in the strength, effectiveness, and value of collaborative conservation efforts prior to a species considered for listing under the ESA. This collaborative conservation with partners may provide species with a better chance of thriving than regulatory actions and protections. Bringing local government, landowners, and others back to the conservation table can be difficult after a listing action. With that in mind, keeping the species from being listed through collaborative conservation efforts is a model that works. The Service will continue to be proactive in these types of efforts.

For example, collaboration between the Service and the Southeastern Association of Fish and Wildlife Agencies on an at-risk species initiative (SEARS) resulted in petitioners withdrawing 45 species when presented with the data compiled by the partnership. This initiative has helped spur similar efforts across the country, including one led by the Western Association of Fish and Wildlife Agencies and Regions 2 and 6 of the Service for 12 states across the West.

#### **Questions Submitted by Rep. Bordallo**

*Question 1. On July 18, 2017, the U.S. Fish and Wildlife Service (Service) released its final biological opinion (OLEPIF00-2015-F-0025 & OLEPIF00-2016-F-0185) regarding potential adverse impacts on the 11 ESA-listed species from the proposed relocation of U.S. Marine Corps (USMC) personnel from Okinawa, Japan to Guam. Will the Service recommit to providing all additional technical assistance/guidance needed for the U.S. Department of the Navy (DON) to fully implement the conservation measures specified in the final biological opinion?*

Answer. The U.S. Fish and Wildlife Service (Service) issued the July 18, 2017, final biological opinion regarding the proposed relocation of U.S. Marine Corps personnel from Japan to Guam after consultation with the Department of the Navy. The Service is committed to working with the Navy to provide the technical assistance and input necessary to ensure successful implementation of the biological opinion and conservation of Guam's imperiled species.

*Question 2. Given the importance of the USMC relocation (proposed action) for national security, what steps is the Service taking or planning to make additional agency personnel/resources available to DON to support conservation measure implementation?*

Answer. The Service participates in regular meetings with Department of Defense (DOD) officials to discuss priorities and needs and to ensure our agencies are aligned and deploying resources accordingly. The Service recognizes the collaboration and technical assistance needs of the DOD in the Pacific and strives to meet those needs within allocated funding and staffing levels.

*Question 3. Is the Service confident that current regional agency resources/personnel are sufficient to meet the Service's obligations to support the DON's implementation of the conservation measures identified in the final biological opinion?*

Answer. Yes. The Service is confident that given current allocated funding and staffing levels, we will be able to support the Department of the Navy's implementation of the conservation measures identified within the final biological opinion.

*Question 4. To the maximum extent practicable, will the Service commit to meet all the deadlines and time frames specified by the final biological opinion, including providing agency responses to DON in a timely manner?*

Answer. The Service is committed to working with DON to meet time frames identified within the biological opinion, given current allocated funding and staffing levels. Coordination throughout the consultation process has resulted in improved communication and technical assistance between our agencies, and we expect that will continue.

*Question 5. What is the Service doing to address concerns about inadequate public access to the Guam National Wildlife Refuge, particularly the Ritidian Unit?*

Answer. The Ritidian Unit of the Guam National Wildlife Refuge is currently open to the public from 7:30 a.m. to 4:00 p.m., 7 days a week, and currently receives about 90,000 visitors a year, hosting 200–300 visitors on the weekends. The Refuge is subject to closure on all major Federal holidays or during bad weather, high-surf advisories or other hazardous conditions in the interests of public safety. The Service would welcome the opportunity to work with you and your office to address any concerns regarding public visitation access to the Ritidian Unit.

*Question 6. Is the Service considering, planning, or willing to examine formal mechanisms for local consultation/input regarding access at the Refuge, including right-of-ways to privately owned land adjacent to the Ritidian Unit?*

Answer. The Ritidian Unit of the Guam National Wildlife Refuge lies within the designated Surface Danger Zone for the Marine Corps Live Fire Training Range. The Refuge road and unimproved right-of-way is currently used by adjacent landowners. In the future, access to this site will be controlled by the Navy, consistent with public safety concerns and the direction provided by Congress in the National Defense Authorization Act for Fiscal Year 2015. We continue to support an alternate access route that would run outside of the Refuge and Surface Danger Zone. The U.S. Government will continue to work with neighboring landowners on access issues, while taking into account public safety concerns.

#### **Questions Submitted by Rep. Pearce**

*Question 1. You mention in your testimony the necessity for Fish and Wildlife Service staff on the ground to work with local landowners. We have a situation in my district regarding the New Mexico Meadow Jumping Mouse and a rancher. To date, the Fish and Wildlife has been unwilling to work toward a solution that works for everyone.*

*Would you commit to working with our office to attempt to find common ground?*

Answer. Yes. The U.S. Fish and Wildlife Service (Service) would be happy to meet with your office and the U.S. Forest Service (USFS) to work toward a solution that addresses your concerns and those of your constituent while being consistent with the law. Service and USFS representatives have met with livestock grazing permittees to discuss best management practices for grazing activities that would conserve the New Mexico meadow jumping mouse and are committed to promoting collaboration with the ranching community. If our past efforts have not resulted in conservation actions that are suitable to the rancher and the needs of the species, then we must re-evaluate those efforts. We are committed to doing so.

The CHAIRMAN. Thank you.

We will now turn to Mr. Corwin for your 5 minutes.

#### **STATEMENT OF JEFF CORWIN, BIOLOGIST, HOST OF ABC'S OCEAN TREKS WITH JEFF CORWIN**

Mr. CORWIN. Thank you very much. Good morning, Chairman Bishop, Ranking Member Grijalva, and members of the House Natural Resources Committee. My name is Jeff Corwin, and I come to you today as a wildlife biologist, a television presenter, an avid outdoorsman, and a father. And I am here to discuss with you today the importance of the Endangered Species Act.

I have been fortunate over my career to have many profound and thrilling encounters with some of our world's most incredible creatures. I truly feel blessed to have my life passion flourish into a rewarding career. And I believe this opportunity could only have materialized in our great country.

A few years ago, I had the heart-pounding opportunity to dive with giant, tractor-sized Steller sea lions off the coast of Alaska to document the impact of the warming Prince William Sound. If you ever want to feel truly insignificant, go eyeball-to-eyeball with a pugnacious, 5,000-pound Steller sea lion at 80 feet.

Alongside the heroes of the U.S. Fish and Wildlife Service, I helped rescue a desperately ill California condor, a bird that was on death's door from lead poisoning. Her blood test revealed that she had enough toxins in her to kill 12 adult men. Incredibly, she not only survived through herculean rehabilitation efforts, but she was released back into the wild.

Why all this effort for a single bird? Well, at one time there were only less than 20 of these birds. Today, more than 400 survive out in the wild. And that is because every condor matters, and that is because of the Endangered Species Act.

In 2008, while white-knuckled, gripping the seat of a low-flying helicopter, I swooped across a vast, expanse of ice with a team from the U.S. Geological Survey on a quest to capture a mighty polar bear. Soon, we spotted a robust sow with two galloping cubs in tow, as they moved across the expansive ice. The wind was whipping at 40 miles an hour, and the temperature was a face-numbing -70 degrees Fahrenheit.

Despite the bitter cold, my heart was warmed from this remarkable encounter, and I savored every second of this humble moment, working with these scientists, as they collected incredibly important data for genetics and health assessment and, of course, attached an incredibly complex transmitter to track this creature. Unfortunately, the results from that test revealed that the cubs had ingested heavy metal toxins through the milk from their mother: a powerful example of, no matter how remote, wildlife remains vulnerable to the negligence of human kind.

I have been fortunate to experience the magnificent wonders of nature, and I can say unequivocally that there is no other place on Earth that boasts the diversity of landscape and creatures than what we have here in our country. We are truly blessed with an extraordinary natural heritage, and we are lucky to walk out each day and experience the natural splendor that is uniquely ours.

I have seen firsthand the amazing efforts of the talented men and women who are on the front lines of our agencies of conservation, fighting to save endangered species. Recovering endangered species from the brink of extinction and restoring their habitat is one of our Nation's greatest success stories.

Think of the symbol of our country: the bald eagle. In the 1970s, only 400 pair remained. Today, more than 20,000 pair survive. Every child in America today in the Lower 48 can witness a wild bald eagle. Grizzly bears and gray wolves have returned to the Western Plains. Black-footed ferrets, once declared extinct, now thrive in the shortgrass prairie. All of this because of the Endangered Species Act.

But today, I come to you as my most important reason to testify, and that is my most important resource, and that is my two daughters, Maya and Marina. The ultimate goal as a father is to ensure that they have a healthy, robust ecosystem where they can thrive

and prosper. And I believe the Endangered Species Act is critical in securing the natural legacy that we all depend upon. Thank you.  
[The prepared statement of Mr. Corwin follows:]

PREPARED STATEMENT OF JEFF CORWIN, WILDLIFE BIOLOGIST, AUTHOR, AND TELEVISION HOST ON H.R. 424, H.R. 717, H.R. 1274, H.R. 2603, AND H.R. 3131

Good afternoon Chairman Bishop, Ranking Member Grijalva, and members of the House Natural Resources Committee. My name is Jeff Corwin and I am a wildlife biologist, explorer, television host, and lifelong naturalist. I have hosted numerous wildlife TV series, including the ABC TV series “Ocean Treks with Jeff Corwin.” I also authored the books “100 Heartbeats: The Race to Save Earth’s Most Endangered Species” and “Living on the Edge: Amazing Relationships in the Natural World.” Thank you for inviting me to appear before the Committee today to deliver testimony on five bills related to Federal wildlife conservation.

I’ve been fortunate over my career to have some amazing, intimate encounters with some of our world’s most threatened and endangered species. I swam with Steller sea lions off the coast of Alaska. I rescued a poisoned California condor and returned it to the wild. I stood in Big Cypress National Preserve just 20 yards from a Florida panther, tracking his movements on a radio transmitter, but still unable to see this elusive big cat.

In 2008, from the passenger seat of a low-flying helicopter, I swooped across a vast expanse of Arctic ice, searching for the mighty polar bear. Soon we spotted a family of gleaming white bears galloping at close to 20 miles an hour to escape what I’m sure momma bear thought to be a giant flying threat to her and her cubs. I stepped out onto the frozen tundra, into –20 degree winds, the membranes of my eyes stinging and my breath instantly forming icicles on my face mask. The adventurer in me loved every second of this, even the pain and discomfort.

We tagged the bear and used the data to learn more about how this magnificent creature was adapting to a swiftly shrinking ice sheet. The scientists I was traveling with had committed decades of their careers to their research, searching for ways to help these bears cope with an uncertain future. I’ve been fortunate to experience the magnificent wonders of nature, and I can say unequivocally that no other country in the world boasts the diversity of landscape and wildlife that we have here in America. We are truly blessed with an extraordinary natural heritage. And, I’ve seen firsthand the amazing work of the women and men who work for the Nation’s wildlife conservation agencies. They should enjoy our full confidence that the science they rely on to do what’s best for wildlife is respected and supported by us all.

Bringing back endangered species from the brink of extinction and restoring their habitat is one of our Nation’s greatest conservation success stories. Bald eagles now fly across the skies of nearly every state. Grizzly bears and gray wolves have returned to the Western Plains. Black-footed ferrets, once declared extinct, now thrive in the American prairie.

But I fear that if we are not strong and resolute in our commitment to protecting endangered species and their habitat, we will quickly lose all the momentum we’ve gained and leave a legacy of mass extinction. I have spent time with hundreds of species, but I also have experienced seeing what extinction is like firsthand. I’ve encountered creatures that are no longer on this planet; they are gone forever. We cannot just rely on past accomplishments—not when we’ve come so far and still have so much further to go.

#### THE SIXTH MASS EXTINCTION

These stories are not anomalies, but rather firsthand evidence of a disturbing phenomenon taking place on our planet. Scientists have concluded that we are well into the sixth mass extinction that planet Earth has experienced and that this one is largely caused by humans.<sup>1</sup> The most recent update to the International Union for Conservation of Nature’s (IUCN’s) Red List of threatened species found that the global extinction crisis is much greater than we previously thought.<sup>2</sup> Out of over 700 new species of birds that were added to the list in 2016, 11 percent of them are threatened with extinction. Giraffes are now threatened with extinction, with populations in southern and eastern Africa declining by as much as 40 percent in the

<sup>1</sup>Ceballos, G., Ehrlich, P., Barnosky, A., Garcia, A., Pringle, R., Palmer, T., *Accelerated modern human-induced species losses: Entering the sixth mass extinction*, June 19, 2015, <http://advances.sciencemag.org/content/1/5/e1400253>.

<sup>2</sup>IUCN, *New bird species and giraffe under threat—IUCN Red List*, Dec. 8, 2016, <http://www.iucnredlist.org/news/new-bird-species-and-giraffe-under-threat-iucn-red-list>.

past three decades. An article published recently in the *Proceedings of the National Academy of Sciences* described the problem of declining wildlife populations as a “biological annihilation.”<sup>3</sup> The crisis cannot be overstated.

The loss of biological diversity is one of the most urgent global environmental problems we face today. Species all over the globe continue to face habitat loss, climate change, wildlife trafficking, pollution, and other existential threats. If we fail to take the necessary action to address human-caused threats to biodiversity, all species—including us—will face severe consequences in the coming decades and centuries. Sadly, we are on track to lose many beloved species forever. As the father of two daughters who love nature as much as I do, I am not ready to accept a future without vibrant, robust natural resources.

#### THE ROLE OF GOVERNMENT IN WILDLIFE CONSERVATION

The Federal Government plays an important role in conserving wildlife. In 2009, I testified before the House Appropriations Subcommittee on Interior, Environment and Related Agencies to advocate for substantial, dedicated funding to help safeguard America’s wildlife and natural resources from the impacts of global warming. Here we are 8 years later. Despite some administrative progress in recent years, it pains me to say that the government has not done enough to protect and conserve our imperiled species during that time. Congress has failed to adequately fund the Federal agencies charged with implementing important wildlife conservation programs, while simultaneously aiming to weaken our existing conservation laws. Wildlife conservation used to be a priority in this country and the rest of the world looked to the United States as a leader in this field. Now, wildlife conservation—especially conservation work to benefit our most vulnerable species—is discouraged at the highest levels of government. Instead of being a pioneering leader in battling the global extinction crisis, we’ve not only taken the back seat—we’ve hijacked the process and seem intent on burning it to the ground. The five bills before the Committee today reflect a dismal and complacent view that I believe our political leaders have adopted toward wildlife conservation. It’s as if they’ve forgotten how rare it used to be to see wild turkeys across the landscape or how special it was to spot a single bald eagle flying along the coastline. It’s only because of our focused conservation efforts over the past several decades that dozens of species that were once on the brink of extinction are now flourishing.

#### THE ENDANGERED SPECIES ACT

The Endangered Species Act (ESA) is a great example of a celebrated American law that the rest of the world looks to as a model for conserving wildlife. The ESA is our Nation’s most effective law for protecting wildlife in danger of extinction. It has prevented more than 99 percent of listed species from going extinct, including the American bald eagle, the brown pelican, and the Florida manatee. We have a responsibility to be good stewards of our environment and protect our natural heritage for our children and grandchildren. The ESA transforms this principle into practice by protecting endangered species and their habitat so that future generations can experience animals in the wild, including seeing an orca swim off the coast of Washington State, spotting a bald eagle soaring in Maine, or hearing the cry of a wolf in Yellowstone National Park.

When my daughter Maya was 3 years old, I had the pleasure of taking her to participate in the historic release of 14 black-footed ferrets into their grassland habitat. This is an animal that nearly went extinct in the wild and was only brought back from the brink thanks to extraordinary efforts under the ESA. Saving the black-footed ferret from the fate of extinction was a herculean task that required science, hard work and funding. The black-footed ferret is the ultimate Lazarus—from 18 captive animals that I had the privilege of filming in a zoo many years ago, it is now a recovering population that has helped restore an important Great Plains ecosystem. We take success stories and habitat restorations like this for granted rather than seeing them for what they are—tangible examples of how our conservation efforts under the ESA and other laws have paid off.

I have also seen how human-caused threats can harm individual animals to the detriment of the species. In this case, the species in question was the critically endangered California condor—a magnificent bird with a wingspan of over 9½ feet. I joined biologists from the U.S. Fish and Wildlife Service (FWS) near Big Sur to help rescue a California condor in extreme distress. We brought the condor into the

<sup>3</sup>Ceballos, G., Ehrlich, P., Dirzo, R., *Biological annihilation via the ongoing sixth mass extinction signaled by vertebrate population losses and declines*, May 23, 2017, <http://m.pnas.org/content/early/2017/07/05/1704949114.full.pdf>.

Los Angeles zoo to conduct a lead test and found that it had high levels of lead in its system. While this was just one individual animal that was affected, that condor represented roughly 1/500th of the entire remaining population. The United States started the work to save this species from the brink of extinction. We owe it to future generations to continue that work for the condor and all species threatened with extinction. Wildlife conservation is an ongoing process. We cannot afford to be complacent and take for granted that our country's magnificent natural heritage will be here for our children without our continued, sustained commitment.

I'm concerned that instead of rising to meet the current challenges we face, the bills that are the subject of today's hearing would collectively turn the U.S. government's back on the hard work that is required to save species for future generations. These five bills and numerous other measures that have been introduced this Congress demonstrate an unwillingness to do more to conserve imperiled species. Instead, the bills seek to do less. Each of these bills would harm threatened and endangered species and erode our most important tool to save them from extinction—the ESA.

DESCRIPTION OF H.R. 424, H.R. 717, H.R. 1274, H.R. 2603 AND H.R. 3131

*H.R. 424 ("Gray Wolf State Management Act of 2017")* would block Federal Endangered Species Act protections for gray wolves in the Great Lakes states and Wyoming. Specifically, this bill—which would be more aptly named the “War on Wolves Act”—would overturn a Federal District Court decision and remove existing Endangered Species Act protections for gray wolves in Michigan, Minnesota, and Wisconsin. It would also codify a recent D.C. Circuit Court of Appeals decision that stripped Endangered Species Act protections for wolves in Wyoming. Further, the bill would prohibit future judicial review of both legislative wolf de-listings. In doing so, this legislation would not only undermine the ESA's science-based decision-making process, but also set a dangerous precedent for the rule of law and citizens' access to the courts more broadly. This bill continues a damaging precedent of allowing politicians to interfere with science-based listing decisions and encourages other insidious legislative attacks on the ESA.

*H.R. 717 ("Listing Reform Act")* puts a price on species conservation by enabling the FWS to determine that a species that would normally be listed as threatened would not receive protections if there are negative economic impacts associated with the listing. It would also completely gut the citizen petition process for listing species by removing all the deadlines that have historically allowed citizens to have their petitions ruled on in a timely fashion. The ESA was written to ensure that listing decisions are based on the best available science—not politics. Yet this bill would wrongly prioritize politics over science in determining whether or not our Nation's most endangered wildlife deserves protection.

*H.R. 1274 ("State, Tribal, and Local Species Transparency and Recovery Act")* would subvert the ESA's science-based listing process by allowing any information provided by states, tribes, or counties to constitute “best available science.” By automatically assuming such a broad swath of information to be defined as such without any scientific input or review, the bill would contradict the meaning of “best available science.” Moreover, H.R. 1274 would direct the Federal Government to utilize state and local data in its listing decisions, regardless of whether the data is based in science. H.R. 1274 is not only contradictory, but duplicative: under the ESA, the Federal Government already works extensively with the states, considers state and local data when making listing decisions, and notifies affected states of proposed listing determinations.

*H.R. 2603 ("Saving America's Endangered Species Act")* would strip ESA protections for non-native species within the United States. It would eliminate Federal protections for individual animals of listed foreign species in the United States, including chimpanzees, tigers, elephants, addax, several species of antelope, several species of parrots, pangolins and giant pandas. The legislation would obstruct the FWS's ability to regulate illegal wildlife trafficking or issue permits for exhibitors of foreign endangered and threatened species. Despite this bill's misleading name, eliminating permitting requirements for foreign species under the ESA will not benefit American species—it would only harm some of the most severely endangered species in the world and contribute to the decline of foreign species on the brink of extinction.

*H.R. 3131 ("Endangered Species Litigation Reasonableness Act")* would undercut citizen engagement and enforcement of the ESA by impeding citizens' ability to obtain counsel and challenge illegal government actions. Under H.R. 3131, citizens who successfully challenge illegal government actions under the ESA would be subject to fee recovery restrictions that could make it difficult for them to obtain

counsel. In doing so, H.R. 3131 would make it more difficult for citizens from across the political spectrum to engage in the implementation of this fundamentally democratic law and to hold Federal agencies accountable for complying with it.

#### CONCLUSION

We cannot afford to lose focus on the importance of protecting wildlife and habitat for ours and future generations. We have not inherited our natural world from our parents; we are simply borrowing it from our children. We have a moral responsibility to be good stewards of our environment and ensure our children have something worthwhile when we are gone. The future of our planet rests squarely in our hands and the United States is in a particularly good position to take action before it's too late. Thanks to our visionary conservation laws like the Endangered Species Act, our native wildlife and their habitat have fared better than those in most countries. We must remain committed to the conservation values we hold dear and focus on positive initiatives to keep our natural heritage intact for future generations. We can and should lead the world in addressing the global extinction crisis. Now is the chance for us to step up and not lose the momentum of the last 50 years to protect nature's most endangered species from extinction.

Although I recognize that I appear before you today as an expert with a career that is based in nature, I am here because, like many of you, I am a father. My job as a parent to my two amazing daughters is to ensure they have a healthy future. I must feed them well, teach them kindness and hope, encourage them to take risks, and show them how to be kind to their fellow human beings. The preservation of our landscape and the wildlife that inhabit it is a huge part of that. How we protect our planet sets an example for our children. I want them to have a future where wild animals roam free, special places remain undisturbed and our natural heritage continues to be our greatest asset.

We must ensure that the laws designed to protect endangered and threatened species—along with the resources needed to enforce them—remain intact.

As a father, my job is to ensure my kids have a healthy future.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO JEFF CORWIN, BIOLOGIST AND HOST OF ABC'S "OCEAN TREKS WITH JEFF CORWIN"

##### Questions Submitted by Rep. Bishop

*Question 1. Please disclose the years in which you served on the Board of Directors for the Defenders of Wildlife.*

Answer. I was elected to serve on the Board of Directors for Defenders of Wildlife in 2004 and served until 2016.

*Question 2. Please describe the duties, obligations, and responsibilities you assumed as a member of the Board of Directors of Defenders of Wildlife. Please also describe in detail all duties, responsibilities, or obligations that your current association with the group entails.*

Answer. The Defenders of Wildlife board of directors controls and administers the affairs and funds of the organization. As a member of the board, I had the following general responsibilities:

- All board members are expected at all times to vote and act with Defenders' best interests in mind.
- The board is responsible for ensuring that Defenders meets legal requirements and that it is operating in accordance with its mission and for the purpose for which it was granted tax-exemption.
- The board is responsible for ensuring the proper and effective operation of Defenders of Wildlife.
- In accordance with their individual capabilities, all board members are expected to assist in making sure that Defenders is provided with the financial and other resources it needs.
- I served on the board's Communications & Publications Committee (later renamed Marketing & Communications), which advises the board on proposed marketing and communications strategies, from 2006–2013. I also served on the Executive Committee, which exercises the authority of the board during intervals between meetings of the board, from 2010–2011.

As I am no longer a board member of Defenders of Wildlife and therefore have no formal association with the group, I have no duties, responsibilities or obligations to Defenders of Wildlife.

*Question 3. Please disclose all Endangered Species Act related cases that Defenders of Wildlife filed, and/or was party to while you served on its Board.*

Answer. I did not sit on the Defenders of Wildlife board's litigation committee, which is charged with reviewing and approving all litigation conducted by the organization. Although the board was generally briefed on legal developments, it has been more than a year since I've left the board, and I do not recall the specific Endangered Species Act-related cases that Defenders of Wildlife filed and/or was party to while I served on its Board. I understand, however, that Ya-Wei Li, Defenders' Vice President for Endangered Species Conservation, recently provided a comprehensive list of such litigation to the Oversight & Investigations Subcommittee of this Committee.

*Question 4. Please disclose the amount of attorney's fees paid to the Defenders of Wildlife under the Equal Access to Justice Act, or the Justice Fund, for each case filed, and/or for each case for which Defenders of Wildlife was a party while you served on its Board.*

Answer. As I noted, I was not a member of the board's litigation committee. Although the board was generally briefed on legal developments, I do not recall the details of attorney's fees paid to Defenders of Wildlife.

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The CHAIRMAN. Thank you.  
Mr. Willms.

**STATEMENT OF DAVID WILLMS, POLICY ADVISOR, WYOMING  
GOVERNOR MATT MEAD**

Mr. WILLMS. Chairman Bishop, Ranking Member Grijalva, members of the Committee on Natural Resources, thank you for the invitation to share Governor Mead's and Wyoming's perspective on the Endangered Species Act.

The civic duty and moral responsibility to conserve our Nation's wildlife and the ecosystems upon which they rely transcends politics. Congress said as much when it nearly unanimously passed the Endangered Species Act in 1973. Yet for the past several decades, divisive partisan rhetoric has politicized wildlife management. In the meantime, both wildlife and people suffer.

To move forward, we must acknowledge that the Endangered Species Act both succeeds and fails. We must celebrate its successes, but recognize and seek to remedy its failures in a way that allows the ESA to better serve wildlife and people.

This mind-set led Governor Mead to launch the Species Conservation and Endangered Species Act initiative when he became Chair of the Western Governors Association in the summer of 2015. Using a transparent, inclusive, and bipartisan process, Governor Mead brought a diverse group of thought leaders together from around the country to discuss ways to improve the Endangered Species Act and species conservation, more generally.

After 2 years, Western Governors adopted a series of recommendations that described specific funding, regulatory, and statutory recommendations to further strengthen the Endangered Species Act and enhance species conservation. These recommendations identify and seek to address many of the issues identified in the bills you are considering today.

Western Governors recommended additional funding in certain areas. Governor Mead supports these recommendations, as well as

recommendations that deliver more direct funding to states for species conservation. However, before making large appropriations for Endangered Species Act implementation, it makes sense to identify and rectify procedural inefficiencies within the ESA that unnecessarily strain existing U.S. Fish and Wildlife resources.

After correcting these inefficiencies, the Fish and Wildlife Service and Congress will better understand where they can redistribute existing funding, and where additional funding may be appropriate.

For example, the deadlines in Section 4 of the ESA invites uncontrolled procedural and legal gambits intentionally designed to cripple the Fish and Wildlife Service's ability to implement the ESA. This, in turn, erodes support from many of the stakeholders necessary for species conservation.

However, the deadlines are not sacrosanct. When Congress adopted the ESA in 1973, it did not include deadlines. In 1982, after complaints that the Fish and Wildlife Service intentionally delayed listing decisions, Congress amended the ESA, adding the current 90-day and 12-month deadlines. Rather than being rooted in science, these deadlines were politically motivated to spur the Administration into taking timely action on potential species listings.

However, Congress could not anticipate the strategic onslaught of species petitions and related litigation that would strain the agency decades later. After 35 years, let us admit that existing deadlines in Section 4 have outlived their usefulness. In addition to the petitions and litigation problems, the compressed deadlines discourage innovative and voluntary conservation, and may limit Fish and Wildlife Service access to valuable scientific data that could otherwise inform listing determinations.

Through their June 2017 recommendations, Western Governors identified two possible ways to address these issues, which are attached and described in detail in my written testimony. Wyoming supports both.

Our current system also makes recovering species and removing ESA protections for them difficult. Currently, roughly 30 percent of all listed species have no recovery plan. On the other extreme, species like grizzly bears and gray wolves in Wyoming exceeded recovery plan objectives for more than 15 years before returning to state management, with the constant threat of litigation looming. This needs to change to maintain the integrity and support for the ESA from the varied stakeholders upon which it depends.

States already play a significant role in species recovery. As described in detail in my written testimony, willing states should be allowed to lead recovery teams and develop recovery plans for listed species. States have already contributed to the recovery of some of the Nation's most iconic species.

For example, Wyoming spent more than \$42 million recovering grizzly bears, including research, public education, and landowner incentives. They can do more. Further, to facilitate successful state management upon de-listing, judicial review of a de-listing rule should be delayed until the completion of the statutory post-de-listing monitoring period. This would not jeopardize recently de-listed species.

Fish and Wildlife Service has never, to my knowledge, relisted a species that it successfully de-listed due to recovery. This underscores the seriousness with which the states accept their responsibility to develop and implement management plans that ensure recovered species into the foreseeable future.

In conclusion, Governor Mead supports the Endangered Species Act. The ESA is responsible for igniting some of the most remarkable species recoveries ever documented, and continues to facilitate the recovery of other imperiled species. However, it is far from perfect. It can and should work better, both for wildlife and for people. The recommendations put forward by Western Governors through Governor Mead's initiative are both reasonable and achievable solutions.

[The prepared statement of Mr. Willms follows:]

PREPARED STATEMENT OF DAVID J. WILLMS, POLICY ADVISOR TO THE HON.  
MATTHEW H. MEAD, GOVERNOR OF WYOMING

Mr. Chairman and members of the Committee, thank you for the invitation to testify today. I have worked on endangered species issues for my entire career, first as a Senior Assistant Attorney General for the state of Wyoming, and then in private practice. Today, I am a natural resources policy advisor for Wyoming Governor Matthew H. Mead, and teach a graduate course on the Endangered Species Act at the University of Wyoming. I appreciate the opportunity to share Governor Mead's, and Wyoming's perspective on the Endangered Species Act.

The civic duty and moral responsibility to conserve our Nation's wildlife and the ecosystems upon which they rely transcends politics. Congress said as much when it nearly unanimously passed the Endangered Species Act (ESA) in 1973. Yet for the past several decades, divisive partisan rhetoric has politicized wildlife management. In the meantime, both wildlife and people suffer. To move forward, we must acknowledge that the ESA both succeeds and fails. We must celebrate its successes, but recognize, and seek to remedy its failures in a way that allows the ESA to better serve wildlife and people.

This mind-set led Governor Mead to launch the Species Conservation and Endangered Species Act Initiative (Initiative) when he became the chair of the Western Governors' Association (WGA) in the summer of 2015. Using a transparent, inclusive, and bipartisan process, Governor Mead brought a diverse group of thought leaders together from around the country to discuss ways to improve the ESA, and species conservation more generally. Over 2 years, the Initiative hosted nine facilitated work sessions, six webinars, multiple surveys and questionnaires that produced two reports outlining opportunities to strengthen the ESA. This work led to a resolution that Governors unanimously adopted in June of 2016. The National Governor's Association adopted a similar resolution in early 2017. Then last month, Western Governors adopted a new series of recommendations that describe specific statutory, regulatory, and funding recommendations to further strengthen the ESA, and enhance species conservation.

Governor Mead hopes this Committee finds these bipartisan recommendations helpful as you consider updating the ESA. You will find that several of the challenges Western Governors identified with the ESA's current implementation are consistent with the challenges underlying many of the bills you are considering today. For illustration, I would like to explain from Wyoming's perspective, how the WGA recommendations address common criticisms of the ESA including, (1) funding shortfalls, (2) reducing procedural litigation, and (3) a more robust recovery planning process.

#### FUNDING

Groups routinely argue that inadequate funding serves as an impediment to successful ESA implementation. Some of these arguments have merit. Western Governors recommended additional funding in certain areas including: (1) to address the current backlog of recovered species awaiting down-listing or de-listing; and (2) to enhance incentive based conservation efforts for listed and non-listed species. Governor Mead supports these recommendations, as well as recommendations that deliver more direct funding to states for species conservation. Other funding may also be appropriate; however, those funding discussions are, in some cases, premature.

Before making large appropriations for ESA implementation, it makes sense to identify and rectify procedural inefficiencies within the ESA that unnecessarily strain existing U.S. Fish and Wildlife Service (FWS) resources.<sup>1</sup> After correcting these inefficiencies, the FWS and Congress will better understand where they can redistribute existing funding, and where additional funding may be appropriate.

#### PROCEDURAL LITIGATION

For example, the current structure of Section 4 of the ESA invites uncontrolled procedural and legal gambits intentionally designed to cripple the FWS's ability to implement the ESA. This in turn erodes support from many of the stakeholders necessary for species conservation. Section 4 establishes the protocols for listing and delisting species. Under this section, a person may submit a petition to the FWS requesting ESA protection for a species as either threatened or endangered. Within 90 days, the FWS must determine whether the petition contains enough information to warrant a more detailed analysis. If it does, then the FWS must make a final determination about the species within 12 months. These deadlines are the source of the greatest acrimony in ESA implementation. However, they are not sacrosanct.

When Congress adopted the ESA in 1973, it did not direct the FWS to act on petitions it received in a specific time frame. In 1978, Congress amended the ESA, and gave the FWS 2 years to make a final determination on whether or not to list a species. Under the 1978 amendment, if the FWS failed to act within 2 years, it was required to withdraw the rulemaking until it received new information about the species.

In 1982, after complaints that the FWS intentionally delayed listing decisions, Congress again amended the ESA adding the current requirement that the FWS make an initial 90-day finding, and that it act on a substantial 90-day finding within 12 months of the date it receives a petition. Congress did not establish these deadlines using any scientific rationale. Instead, Congress imposed a politically concocted, arbitrary deadline to spur the Administration into taking timely action on potential species listings.

However, Congress did not anticipate the strategic onslaught of species petitions and related litigation that would strain the agency decades later. Prior to 2003, the FWS never received more than 25 species listing petitions in a single year. Since then, species petitions have skyrocketed. In 2007, the Services received petitions to list 695 species, and another 432 in 2010—nearly all of which originated from two non-governmental organizations. These two groups attempt to overwhelm the FWS with so many species petitions that the FWS is unable to respond within the statutory time frames. Then, these two groups litigate, in hopes that the FWS will acquiesce to their demands. We should not allow two groups to dictate the policy of an entire agency because we are afraid to acknowledge and address the problem.

After 35 years, let us admit that the politically motivated deadlines in Section 4 have outlived their usefulness. In addition to the problems discussed above, the compressed deadlines discourage innovative and voluntary conservation, and may limit FWS access to valuable scientific data that could otherwise inform a listing determination.

Through their June 2017, recommendations, Western Governors identified two possible ways to address these issues. Wyoming supports both. Congress could amend Section 4 to give the FWS greater flexibility to prioritize petitions it receives, but with an understanding that it must still make a decision by a specific date. Alternatively, Congress could amend Section 4 to give the FWS discretion to defer listing determinations up to 5 years if the species meets certain conditions. For example, the FWS could defer a listing decision to allow state-led conservation efforts an opportunity to succeed, or to allow the completion of ongoing scientific studies related to the petitioned species.

In addition to alleviating the agency workload, these pragmatic changes have other benefits. They would allow the FWS to ensure that the most imperiled species receive immediate attention, thus reducing the likelihood of extinction. They would encourage more creative and collaborative conservation efforts like those undertaken for greater sage grouse and lesser prairie chicken. They would ensure that listing decisions are based on the best available science. Finally, they would significantly reduce litigation, allowing agency personnel to spend more time developing and implementing strategies for recovering listed species.

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<sup>1</sup> The Secretaries of the Interior and Commerce have authorities under the ESA, which manifest through the Fish and Wildlife Service and National Marine Fisheries Service. For purposes of my testimony, I refer to the FWS because Wyoming interacts with them exclusively.

## RECOVERY PLANNING

The ESA envisions recovering a species to the point that its protections are no longer necessary. Yet, our current system makes removing protections for recovered species difficult. This must change. Currently, 493 species, or roughly 30 percent of all listed species have no recovery plan. This means species like Canada lynx, which the FWS listed as threatened more than 17 years ago, sit in purgatory with no discernible path to recovery. On the other extreme, species like grizzly bears and gray wolves exceeded recovery plan objectives for a generation before returning to state management.

Grizzly bears first met their ESA prescribed recovery objectives in 2003—an event that would presumably trigger de-listing. Yet, the FWS took 4 more years before publishing a de-listing rule in 2007. Ultimately, the rule failed to survive judicial review on a procedural technicality. Grizzly bears continued to increase in population and expand their range, yet it took until June of this year before the FWS issued a new de-listing rule addressing the 9th Circuit's lone concern. Instead of celebrating grizzly bear recovery as an ESA success story, hosts of organizations have already issued notices of intent to sue the FWS over its de-listing rule. They allege procedural deficiencies in the rule as well as hypothetical, unsubstantiated, prospective harm.

Fundamentally, these groups do not want to see grizzly bears de-listed because they do not trust states to manage wildlife within their borders. However, they fail to recognize two important facts. First, states played a significant role in recovering grizzly bears. Since the early 1980s, Wyoming has spent more than \$42 million on grizzly bear recovery—including contributing to research that makes this population of grizzly bears perhaps the most studied mammalian population on the planet. Wyoming also funds public education and landowner incentive programs that engender support for grizzly bears on a multiple-use landscape. Second, the FWS has never relisted a species that it successfully de-listed due to recovery. This fact underscores the seriousness with which the states accept their responsibility to develop and implement management plans that ensure a recovered species into the foreseeable future.

For these reasons, Governor Mead encourages Congress to consider the WGA recommendation that would encourage willing states to lead recovery teams and develop recovery plans for listed species. Those recovery plans should contain discrete, achievable goals that when met satisfy all of the de-listing criteria under Section 4 of the ESA. When the species meets the recovery goals established in the recovery plan, the FWS should immediately initiate a status review of the species for purposes of considering de-listing or down-listing of the species. Finally, once the FWS de-lists a species, states should manage the species. To allow states an opportunity to succeed, Congress should consider delaying judicial review of a de-listing rule until the completion of the post de-listing monitoring period established through the de-listing rule pursuant to statute.

## WOLVES

I briefly want to address this Committee's efforts to ensure wolves in Wyoming remain under state management. Earlier this year, after a protracted legal battle, the Federal Circuit Court in Washington, DC issued a mandate that reinstated a 2012 FWS rule de-listing gray wolves in Wyoming. Today, Wyoming is managing wolves pursuant to a federally approved wolf management plan that ensures a recovered wolf population in Wyoming for the foreseeable future. The provision of the bill protecting the FWS wolf de-listing rule from further judicial review provides the states with needed predictability while still ensuring a recovered wolf population.

Regardless of the mechanism, any measure that ensures state management predictability into the future provides the most pragmatic and reasonable solution for both the gray wolf population and Wyoming citizens. The ESA preserves the responsibility for the FWS to relist Wyoming's gray wolf population if it becomes threatened or endangered in the future. The current draft of this bill does not affect this ESA requirement.

## CONCLUSION

Governor Mead supports the Endangered Species Act, as evidenced by his leadership of the Species Conservation and Endangered Species Act Initiative through the Western Governors' Association. The ESA is a valuable tool for ensuring that our suite of wildlife remains for the enjoyment of future generations. The ESA is responsible for igniting some of the most remarkable species recoveries ever documented, and continues to facilitate the recovery of other imperiled species. However, it is far from perfect. It can, and should work better, both for wildlife and for people. The recommendations put forward by Western Governors through Governor Mead's

Initiative are both reasonable and achievable solutions that warrant serious consideration.

Thank you again for this opportunity to share Wyoming's perspective on ways to strengthen the ESA and enhance species conservation.

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#### ATTACHMENT

### **WGA Species Conservation and the Endangered Species Act Initiative Year Two Recommendations**

#### **Preamble**

The Western Governors' Association (WGA), under the leadership of then-Chairman Wyoming Governor Matt Mead, launched the Western Governors' Species Conservation and Endangered Species Act Initiative (Initiative) in 2015. Since the Initiative's inception, WGA has hosted numerous workshops, webinars, and work sessions to create a forum for a diverse coalition of stakeholders to share best practices in species management, promote the role of states in species conservation, and explore options to improve the efficacy of the Endangered Species Act (ESA).

While the Initiative has closely examined the ESA, the effort goes well beyond consideration of the Act alone. Governors also are seeking to encourage voluntary conservation—through early identification of sensitive species and establishment of institutional frameworks that incentivize collaborative voluntary conservation—thus avoiding the need to list species in the first place.

The first year of the Initiative (2015–2016) resulted in approval of WGA Resolution 2016–08: *Species Conservation and the Endangered Species Act*—an expansive resolution encapsulating Governors' principles informed by the Initiative. The Resolution instructs WGA staff to develop a multi-year workplan to further Governors' policy principals on Species Conservation and the ESA. What followed in the first year of workplan implementation (2016–2017) was a continuation of the transparent, inclusive, and stakeholder driven process to refine and examine avenues for implementation of Governors' policy statements expressed in the Resolution.

A suite of recommendations addressing proactive and incentive based voluntary conservation species and ESA implementation emerged from year two work sessions. Work session participants were not expected to reach full consensus on recommendations forwarded by the Governors. However, comity among work session participants gave rise to significant progress toward conceptual agreement and helped inform the Governors' deliberations on the recommendations contained in this document.

As interest within Congress and the Administration in examining the ESA builds, Western Governors' submit these bipartisan statutory, regulatory and funding-related recommendations consistent with implementation of the principles forwarded in WGA Resolution 2016–08, *Species Conservation and the Endangered Species Act*.

Importantly, with respect to statutory recommendations, Western Governors' acknowledge any congressional effort to amend the ESA will be complicated and spark diverse opinions. WGA's ESA initiative enjoyed diverse stakeholder input and broad consensus; these resulting recommendations represent bipartisanship at this stage. Each Governor reserves judgment on whether to support congressional action, based upon unknown future legislative language.

#### **Statutory**

1. (A) Amend Section 4 of the Endangered Species Act to create flexibility for the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively, "Services") to create a prioritization schedule for petitions received. The Services must assign a petitioned species a listing priority within 12 months of a positive 90-day finding. Species in immediate risk of extinction will receive highest priority, while species with ongoing conservation efforts or species for which listing would provide limited conservation benefit within the foreseeable future will be placed in a lower priority category.
- (B) Amend Section 4 of the Endangered Species Act to create a statutory exception for the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively, "Services") to defer 12-month findings for a species under the ESA when: (1) a conservation plan is either being developed or implemented to meet the conservation needs of the species. In the

case of species that range across multiple states, this refers to a plan in each state or a range-wide plan. The Services may renew the deferral every five years so long as they have worked with states to complete a determination that the conservation plan continues to meet the conservation needs of the species; (2) a delay will allow time to complete data collection or complete studies relating to the petitioned species; (3) species for which listing would provide limited conservation benefit within the foreseeable future.

2. Require the Secretary to make a determination on whether or not to designate critical habitat for a species. The Secretary shall designate critical habitat if he or she determines such a designation is necessary to recover the species. If the Secretary determines that such designation is not critical to recovery of the species, the Secretary may decline to designate critical habitat for a species. If the Secretary designates critical habitat, it must link such designation to recovery objectives and plans. For many species, recovery planning cannot occur until years after a listing, leaving a lot of time for critical habitat to be compromised in the meantime. When necessary, critical habitat should continue to be designated at the time of listing, and re-evaluated as part of the recovery planning process. The Secretary will retain current authority to permit exclusions from critical habitat designations for discrete purposes.
3. Upon listing, the Services will convene a recovery team within 12 months. States will have the option to lead and develop that team. The Recovery Team shall create a recovery plan, and lead its implementation. The recovery plan shall include criteria, that when met, would require the Recovery Team to recommend de-listing or down-listing to the Services. Whenever necessary, the recovery plan should be updated to include the best available science and strategies to address all recognized threats to recovering the species. Upon receipt of the recommendation to de-list or down-list a species from the Recovery Team, the Service shall initiate a status review of the species for purposes of considering de-listing or down-listing. Once the Services issue a de-listing rule, they shall develop a post de-listing monitoring plan in a timely fashion, and judicial review of the delisting rule will be delayed until the completion of the post de-listing monitoring review period so long as a federally endorsed conservation plan is in place.

#### **Regulatory/Administrative**

1. Examine the possibility of providing assurances on public land to minimize the disincentive to enrolling in Candidate Conservation Agreements with Assurances (CCAAs) for permitted public land users with operations spanning both federal and private land. Assurances provided may not come in the form of incidental take permit associated with CCAAs, but rather a suite of assurances such as increased AUMs or extended grazing lease renewal periods for operators providing conservation actions on public lands, providing the assurances would not compromise the intent of the CCAA to recover the species to the point that ESA listing is not necessary.
2. When a landowner implements conservation measures as a part of a federally endorsed conservation agreement, the Services may exclude private land covered under the agreement from any critical habitat designation. This authority currently exists under the ESA, but needs further clarification and guidance.
3. When making listing determinations, the Secretary must take into account conservation efforts to protect species, including efforts by states, federal agencies, and private landowners.
4. The Services should work with states to develop templates for voluntary conservation programs and conservation tools that are intended to incentivize voluntary conservation for a variety of species and habitats. These templates would provide a more streamlined process of implementing voluntary conservation programs for candidate and listed species.
5. Encourage the Service to develop Species Status Assessments to help inform a listing determination. If listing is deemed warranted, use this same assessment to inform development of a recovery plan blueprint so stakeholders are able to implement effective recovery actions prior to the release of a formal species recovery plan.
6. Given the Services' new policy of using Species Status Assessments (SSAs) as a routine part of listing and recovery decisions made under the ESA, recommend the Services promulgate regulations to ensure the SSAs serve their

intended function of collecting and analyzing foundational science on a species and updating that information promptly when new data or analysis becomes available. Give state wildlife agencies a leadership role on SSA teams commensurate with their position as the repository of the bulk of the data and expertise on many species. Most critically, provide an adequate internal appeals process for challenging the conclusions of an SSA, either to Ecological Services leadership or to the Regional Director, to ensure that a misguided determination does not become embedded in multiple future decisions about a species.

7. Develop a national policy for the implementation of 4(d) rules that details best practices and incentivizes strong local input.
8. Clarify or emphasize existing authority under the ESA for states to exercise concurrent jurisdiction with the Services to implement the ESA, including management of threatened species and issuance of Section 10 take permits, if states demonstrate a desire and capacity to do so.
9. If states decline to develop and lead a recovery team, as described in Statutory Recommendation #3, the Services shall still seek sufficient participation from states to assemble recovery teams. States maintain strong wildlife management expertise, relationships with their regulated communities, and are able to better identify those individuals and entities that can best contribute to the recovery planning process.
10. Establish an informative “playbook” to inform citizens on how to engage throughout various steps of the ESA process.
11. In the case of species which are listed as threatened or endangered where listing provides limited conservation benefit within the foreseeable future, concurrent with the listing, Services should issue a 4(d) rule that emphasizes regulatory flexibility. Services should also consider delaying critical habitat designations, as well as modify the way in which they conducts consultations.

#### **Funding**

1. Pair economic incentives with critical habitat and priority conservation designations on private land and public land permitted users to alleviate the burden of critical habitat designations on private land while rewarding stewardship of quality habitat. Incorporate a scoring system—similar to, but not duplicative of, farm bill incentive scoring system—developed by stakeholders and including states, for private land conservation priority to assign varying economic incentives.
2. The Services’ budget should include specific line items directing funding to assist stakeholders interested in seeking assurance agreements and other voluntary conservation efforts.
3. The Services currently allocate very little of their recovery budget to de-listing or down-listing recovered species, which causes species to remain listed as threatened or endangered longer than the ESA intends. Congress should allocate money to the Services through a specific line-item in their budgets to enable the Services to timely de-list or down-list species.
4. Congress should allocate additional funding to the Services’ to implement the ESA. Western Governors believe that adoption of these recommendations will improve the efficacy of the ESA, but recognize that the Services and states require adequate funding to ensure successful implementation of the Act. Governors will work with Congress to identify priorities for funding that will facilitate voluntary species conservation efforts and improve the efficacy of the ESA.

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QUESTIONS SUBMITTED FOR THE RECORD TO DAVIS WILLMS, POLICY ADVISOR TO  
WYOMING GOVERNOR MATT MEAD

#### **Questions Submitted by Rep. Bishop**

*Question 1. You mentioned in your written statement that 493, or roughly 30 percent of listed species have no recovery plan—for example, the Canadian Lynx has been listed for 17 years with no plan.*

*1a. Please explain how the lack of recovery planning has impacted states and the species?*

Answer. Delayed recovery planning negatively impacts wildlife and people in several ways. First, it complicates land management planning documents. When Federal agencies update their land use documents, they must address threats to listed species. In the absence of recovery plans, agencies lack the requisite detail to understand where to manage for the benefit of listed species, and where to allow multiple uses on the landscape. This can delay planning processes and create unnecessary disruptions to other uses of Federal land.

Second, it discourages states from investing financially in species recovery. Canada lynx were listed as threatened 17 years ago, but have no recovery plan. Consequently, Wyoming spent only \$8,209 on Canada Lynx in 2016. Other species with active recovery plans receive far more resources. In 2016, Wyoming spent \$2,606,261 on grizzly bear recovery, \$265,107 on black-footed ferret recovery, and \$25,376 on Preble's meadow jumping mouse recovery. Even unlisted species with active conservation plans received more financial investment than lynx. For example, Wyoming spent \$2,770,262 on sage grouse conservation and \$332,764 on black-tailed prairie dog management in 2016.

Third, species recovery takes longer without a recovery plan. Consequently, the costs and delays of Endangered Species Act (ESA) compliance continue longer. This includes completing Section 7 consultations for projects with a Federal nexus, and developing a conservation plan to acquire an incidental take permit under Section 10. In each instance, these processes can delay project implementation, increase costs, and in rare instances stop the project. The longer a species remains listed, the longer people must endure these burdensome steps.

Finally, one of the stated purposes of the ESA is to recover species to the point that the ESA's protections are no longer necessary. It requires the U.S. Fish and Wildlife Service (FWS) develop a recovery plan to achieve this purpose. Species with recovery plans recover faster and more effectively than those without a plan. So, the FWS's failure to develop recovery plans for roughly 30 percent of listed species potentially jeopardizes those species' long-term survival.

*1b. How would state-led recovery teams benefit recovery efforts?*

Answer. States have the local relationships and species knowledge to lead an effort that will expedite species recovery. States can leverage their relationships with landowners to facilitate conservation on private lands. States can also utilize their species data to best articulate and implement a road-map to species recovery. Both of these factors will lead to quicker and more effective species recovery.

Quicker species recovery has many benefits. It ensures species survival, engenders support for the ESA from the regulated community, and allows wildlife managers to turn their attention to other imperiled species. Further, with states leading recovery efforts, the FWS may have increased flexibility to spend limited resources on species with greater need. This benefits all species, and gives the regulatory certainty they desire.

Western Governors identified ways Congress and the FWS can improve the recovery planning process. The specific recommendations are described in my written testimony and the WGA Species Conservation and the Endangered Species Act Initiative Year Two Recommendations, which is attached to my written testimony.

*1c. Please elaborate on the importance of state-led conservation efforts and how allowing them time to work benefits the species, our economy, and our communities.*

Answer. Wildlife and people benefit when the protections of the ESA are not needed. State-led conservation efforts frequently preclude the need to list species. This benefits people, and the species that the conservation efforts target. For example, Wyoming developed a conservation strategy for greater sage grouse that ultimately helped ensure that it would not require ESA protections, while protecting Wyoming's economy. Wyoming's conservation strategy will cost its economy roughly \$1 billion annually and 5,495 jobs. However, if the FWS listed sage grouse as threatened or endangered, Wyoming would suffer economic harm of \$1.5 to \$5.3 billion annually and a loss of up to 24,000 jobs. (Temple Stoellinger, David Taylor, *A Report on the Economic Impact to Wyoming's Economy From a Potential Listing of the Sage Grouse*, University of Wyoming, 2016).

Wyoming's efforts to conserve sage grouse succeeded because it had time to develop and implement its strategy. This time allowed Wyoming to solicit participation from a diverse group of stakeholders to develop a framework that worked for sage grouse, and people.

State led conservation efforts benefit listed species too. The FWS does not have the resources to recover every listed species. If states are implementing conservation plans that preclude the need to list species, the FWS can invest more time and money in recovering truly imperiled species.

The rigid timelines in Section 4 of the ESA can hinder creative conservation efforts. Western Governors recognized this, and endorsed creating flexibility in the ESA to encourage greater prelisting conservation. Those recommendations are included as part of my written testimony.

*Question 2. The Gray Wolf State Management Act would protect the wolf de-listing rule from further judicial review and lend more stability and predictability to state management efforts.*

*2a. How did years of uncertainty impact the State of Wyoming and why is certainty in the de-listing process important to states?*

Answer. When wolves reached their recovery objectives of 10 breeding pairs and 100 wolves in 2002, Wyoming and its citizens anticipated that the state would soon begin managing wolves. However, years of litigation and disagreements about state management plans followed. Wyoming entered its first of five lawsuits related to wolf de-listing in 2004, and resolved its last lawsuit earlier this year.

In 2009 and 2012, the FWS returned management to the state only to have a Federal judge reinstate protections. In the meantime, wolf populations rose to nearly 400, and local support for wolves waned.

For years, Wyoming sportsmen have invested in wolf recovery. Through the Game and Fish Department, sportsmen compensate livestock producers who suffer losses from wolf depredation. Last year, the Game and Fish Department compensated landowners for \$390,000 in sheep and cattle losses attributed to wolves, which is an increase of \$80,000 over the prior year. Without state management, this number will only increase, and sportsmen will grow increasingly frustrated along with landowners.

Earlier this year, the Federal Circuit Court in Washington, DC reinstated Wyoming's 2012 de-listing rule. Since then, Wyoming has managed wolves pursuant to its management plan. State management should result in decreased human/livestock conflict, fewer sportsmen dollars going to damage compensation, and increased support for wolves on the landscape. The state management plan also ensures a recovered wolf population for the foreseeable future. Yet, the threat of litigation continues, which perpetuates distrust from the public, and skepticism from the state.

*2b. Short of additional acts of Congress to de-list recovered species and protect them from years of litigation, how would you suggest we improve the de-listing process to lend more certainty and predictability to state management efforts?*

Answer. Western Governors identified two specific ways to improve the de-listing process, which are detailed in WGA Species Conservation and the Endangered Species Act Initiative Year Two Recommendations, attached to my written testimony. First, give states the opportunity to lead the development of a recovery team, and implementation of a recovery plan. The recovery plan should contain criteria, that when met, would trigger a status review for potential de-listing or down-listing.

Second, once the FWS de-lists a species, consider delaying judicial review until the end of the post de-listing monitoring period. This would allow states to implement FWS endorsed management plans for a minimum of 5 years without the threat of litigation. At that time, litigants would have to base their challenge to the de-listing rule on realized, rather than theoretical harm. Since no species that FWS successfully de-listed due to recovery has ever been relisted, adding this provision will not negatively impact wildlife. However, it will provide greater certainty to states, and the regulated communities impacted by perpetual litigation.

*Question 3. The Listing Reform Act allows for threatened species designations to be precluded due to economic factors, and allows for reconsideration of precluded threatened species listings only if the Secretary determines that there is a danger of species extinction, or if the Service receives a new petition that includes alternative actions that can be taken to avoid the economic impacts of listing.*

*3a. Should economic factors be considered in threatened species designations, and if so, why?*

Answer. The impacts of a listing can devastate local economies. Governor Mead recognizes this, as do other Western Governors. That is one of the reasons that so many states, local governments, landowners, industries, and conservationists came together to conserve the greater sage grouse. We should encourage more creative, collaborative conservation efforts to obviate the need to list species. This creates healthier wildlife populations, and ensures that state and local economies do not suffer from species listings.

Western Governors identified two potential statutory solutions to incentivize earlier species conservation. Both involve amending Section 4 of the Endangered Species Act in a way that recognizes and rewards state-led, voluntary conservation efforts through deadline flexibility. Western Governors also identified a number of regulatory suggestions for enhancing voluntary conservation. The specific recommendations are described in my written testimony, and attached as the WGA Species Conservation and the Endangered Species Act Initiative Year Two Recommendations. If implemented, these recommendations should greatly reduce the number of threatened listings, thus making consideration of economic factors in threatened species designations unnecessary.

*3b. From your perspective, would the ability to preclude threatened species listings due to economic factors facilitate higher-quality listing decisions that benefit both species and our Nation?*

Answer. The WGA Species Conservation and the Endangered Species Act Initiative Year Two Recommendations, attached to my written testimony, identify several ideas to alleviate the economic consequences of a threatened species listing.

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The CHAIRMAN. Thank you. Mr. Holsinger for 5 minutes.

**STATEMENT OF KENT HOLSINGER, MANAGER,  
HOLSINGER LAW, LLC**

Mr. HOLSINGER. Thank you, Mr. Chairman, members of the Committee. It is an honor to be here today to testify on these important issues.

It has been since 1988 that the Endangered Species Act was substantively amended. If you look back at that time, the Soviet Union was a superpower. I was probably listening to Def Leppard on a Sony Walkman. Updates to the ESA are long, long overdue. And, as Mr. Willms testified, that is probably why the Western Governors Association (WGA) has put forth specific recommendations for change.

I cannot underscore the significance here: 19 Western Governors, 3 U.S. territories, never before in my career has WGA expressly supported specific amendments to this Act. They do today, and for very good reason.

If you step back from the five bills we are talking about today, there is a common theme. And that theme, a small number of radical litigants are gaming the system at taxpayer expense. And, as a result, they are wasting the scarce resources that we should be putting forth for species that are truly in need of protection and for on-the-ground conservation efforts.

As the Daily Caller has reported from data from a GAO report that the Ranking Member actually ordered, 90 percent of ESA settlements have gone to environmental groups. More than 50 percent of those to two groups: WildEarth Guardians and the Center for Biological Diversity (CBD). Those two groups have litigated innumerable times. In fact, from 2000 to 2009, CBD has filed suit 409 times; WildEarth Guardians, 180; from 2009 to 2012, CBD 117 lawsuits, WildEarth Guardians, 55.

Since 1990, we scrutinized Federal court records and found that these two groups alone have filed over 1,500 lawsuits—most against the Department of the Interior and Agriculture, most raising ESA as an issue. These groups are gaming the system. They are creating the very logjams they sue over.

Section 4 of the Endangered Species Act allows any person to petition to list a species. These groups are petitioning to list hundreds

at a time. And that simply cannot be done. So, as a result, the agencies miss deadlines, and these groups then litigate over those deadlines. They sue, they settle, they collect their attorney's fees—as you heard, often at exorbitant rates—and they rinse and repeat and do it over and over again. It is disgraceful, it is wasting our resources, and it has to stop.

What is worse, these habitual litigators are even collecting government grants for the privilege. In 2016, WildEarth Guardians collected \$800,000 from the Federal Government, up from \$500,000 in 2015. As a result of this litigation, we are strangling in red tape, with severe economic consequences to hardworking families, local communities, and wildlife conservation itself.

The ESA was passed in 1973 with visions of grizzly bears and bald eagles. Who could have foreseen the listings, the litigation, the controversy over 32 northwest mollusks, or the Chiricahua scurf pea, the alkaligrass? It is time that we re-prioritize to species that are truly in need.

We listen to the states and the local governments that often have the best information on wildlife. The states have been managing wildlife successfully and recognized by the courts in doing so since 1896 in the U.S. Supreme Court case of *Gear v. Connecticut*.

I urge the Committee to adopt these important measures, and also consider delegating ESA authority to the states, much like we do the Clean Air Act. Listings for full species only, so that we can concentrate on our efforts on those truly in need of protection.

[The prepared statement of Mr. Holsinger follows:]

PREPARED STATEMENT OF KENT HOLSINGER, MANAGER AND FOUNDER,  
HOLSINGER LAW, LLC ON H.R. 717, H.R. 2603, H.R. 1274, H.R. 424, AND H.R. 3131

#### INTRODUCTION

Thank you for the opportunity to testify on these important issues. Holsinger Law, LLC is a small, Denver-based law firm that specializes in lands, wildlife and water law. I am testifying as the manager and founder of Holsinger Law, LLC. In that capacity, I can attest to the impacts the Endangered Species Act (“ESA” or “the Act”) has had on many of our clients, such as individual landowners, agricultural interests, water providers and energy producers.

According to the U.S. Fish and Wildlife Service’s (“FWS”) Environmental Conservation Online System, approximately 1,564 U.S. species have been listed under the ESA since the Act’s passage in 1973 (and not counting those species listed under its predecessors). Only 23 domestic species have been de-listed due to recovery. In other words, we can celebrate the recovery of only 1 percent of all domestic listed species in the United States. The regulatory burdens of the ESA have been severe while its successes have been sparse.

In the 44 years since the ESA was passed, it has become increasingly apparent that implementation is plagued with problems. Various listing decisions have proven: a clear lack of coordination with state and local governments; a failure to designate recovery goals within set time frames; the failure to economically incentivize private conservation; and a tendency to allow sue-and-settle litigation, among other issues.

The Act is long overdue for amendment. The last time the ESA was substantively updated (1988), the Soviet Union was a superpower and Def Leppard topped the pop charts. Former Idaho Senator Dirk Kempthorne tried, but ultimately failed, to amend and reauthorize the ESA in 1997. I was intimately involved in those efforts as well as the amendments to the ESA that passed the House in October of 2005.

A FWS document, “[A] History of the Endangered Species Act of 1973” nicely summarizes amendments to the Act over the years. The most significant amendments were made in 1978. They allowed Federal agencies to undertake actions jeopardizing listed species as long as such action was exempted by a Cabinet-level committee; required concurrent designation of critical habitat with a species listing; directed that plans for conservation of fish, wildlife, and plants be developed; ex-

panded land acquisition authority; and defined distinct population segments as limited to vertebrates.

The 1982 amendments required listing determinations to be made based solely on biological and trade information; instituted 12-month finding requirements; permitted designation of experimental populations; prohibited removal and possession of endangered plants from Federal land; introduced habitat conservation plans that allowed for incidental take.

The 1988 amendments introduced monitoring of recovered and candidate species; expanded protections for listed plants; required public notice and comment on recovery plans and required expenditure reports for Section 6 funding.

Minor amendments for the Department of Defense were made in 2004 and 2009, but did not substantially affect the provisions of the original Act. Funding was authorized through Fiscal Year 1992. Since then, Congress has appropriated funding to continue ESA implementation.

#### *The ESA versus Species Conservation*

ESA listings often restrict the ability to manage for species and could even result in more harm than good. Inevitably, a listing or potential listing becomes a threat to landowners because of the inherent economic consequences. See Amara Brook, Michaela Zint, Raymond De Young, *Landowners' Responses to an Endangered Species Act Listing and Implications for Encouraging Conservation*, 17 *Conservation Biology* 1473, 1638 (Dec. 2003) (Where an extensive survey of landowners showed many managed their land so as to avoid the presence of a listed species). This has even been found to facilitate development of private lands.

The listed red-cockaded woodpecker provides a good example. A single colony can cost up to \$200,000 in foregone timber costs according to the Cato Institute. See Jonathan H. Adler (<https://object.cato.org/sites/cato.org/files/serials/files/regulation/2007/12/v30n4-6.pdf>). Many landowners managed their forest lands to avoid nesting of the species:

[Ben] Cone of North Carolina managed 7,200 acres of timberland with 70–80 year harvest rotations, small cuts, and controlled burns, which . . . created habitat for the red-cockaded woodpecker. When the endangered woodpecker took up residence on Cone's land, more than 1,500 acres were placed under the control of the U.S. Fish and Wildlife Service (see Stroup 1997). In response, Cone began a harvest rotation of 40 years on the rest of his land in order to eliminate the mature pines favored by the woodpecker and also remove any possibility that the federal government would take control of his remaining land.

Ben Cone's experience is not an isolated incident, as a study by economists Dean Lueck and Jeffrey Michael (1999) confirms. Using data from hundreds of forest plots in North Carolina, they found that the more red-cockaded woodpeckers in the vicinity, the more likely the landowners were to harvest younger trees. . . . (Lueck and Michael 1999, 36). The landowners' incentive for using this shorter rotation was to ensure the birds did not move onto their property, possibly leading to land-use restrictions. Clearly, the ESA is creating perverse incentives.

Holly Fretwell, *Forests: Do we get what we pay for?* Property and Environment Research Center. (January 1999), <https://www.perc.org/articles/do-we-get-what-we-pay>.

A similar study found that “land designated as critical habitat [for the cactus ferruginous pygmy owl] was, on average, developed one year earlier than equivalent parcels.” Jonathan H. Adler, *Anti-Conservation Incentives*, Cato Institute. (Winter 2008).

According to Bureau of Land Management (“BLM”) and U.S. Forest Service officials, the ESA creates “. . . a complex maze of processes and procedures, which field biologists and managers must attempt to negotiate on a daily basis in order to implement on-the-ground projects.” USFS and BLM, *Improving the Efficiency and Effectiveness of the Endangered Species Act*, (Dec. 15, 2003). In regards to the peregrine falcon, leading experts concluded, “despite having the authority for implementing the ESA, and a number of their biologists contributing importantly to the recovery program, as an agency the FWS had a limited role, and its law enforcement division, which was in charge of issuing permits as well as enforcing regulation, was **regularly an obstacle to recovery actions.**” (Burnham and Cade 2003) (emphasis added).

Because the regulatory straightjacket of the ESA creates a disincentive to landowners, listing often stands in the way of good conservation work. Even the FWS

has expressed that it “supports voluntary conservation as the most effective method to protect species and their habitats.” See 70 Fed. Reg. 2245. Further, FWS acknowledges “that listing may affect local planning efforts, due to its effect on voluntary conservation efforts.” *Id.* at 2246.

Based on these and many other similar examples of the ESA’s perverse incentives, it is clear the ESA penalizes the very stewards of the majority of habitat for listed species (private landowners). Providing compensation and incentives for landowners is essential for productive conservation.

#### *Listing through Litigation*

Currently, Federal agencies are subject to statutory time frames for reviewing listing petitions and making determinations. Rather than guiding and expediting the listing process, however, these time frames instead become the tool of litigious activist groups seeking to push their own agendas while recovering litigation costs. In fact, these groups often cause the issues they subsequently litigate.

Over the past several years, a small cadre of environmental groups has buried the FWS with listing petitions under the ESA. WildEarth Guardians (“WEG”), the Center for Biological Diversity (“CBD”), and their like have a long history of filing both numerous and onerous listing petitions. For example, in 2007 WEG submitted two petitions seeking to list 475 Southwestern species and 206 species in the Mountain-Prairie Region. A 2013 petition sought to list 81 marine species. CBD petitioned to list 404 species in a single 2010 petition.

These massive and numerous petitions serve only to increase FWS’s workload—and by extension, the time needed to review and subsequently make determinations. FWS has already struggled to carry out Section 4 directives. Environmental activist groups see this ensuing delay—brought about in part because of the extensive petitions they themselves have submitted—as an opportunity to litigate. In a February 8, 2016 article, Robert Jackson and John Eick for the American Legislative Exchange Council reported that sue-and-settle agreements had quintupled during the Obama administration compared to previous administrations. CBD and WEG are repeat offenders to say the least. They filed 117 and 55 lawsuits respectively between 2009 to 2012. Collectively, these two groups (and their predecessors in interest) have filed roughly 1,500 lawsuits since 1990.

The perverse incentives to litigate under the ESA must be removed.

#### *Failure to Involve State and Local Governments and to Incorporate State and Local Input*

While Section 4(b)(1)(A) requires the Secretary to take into account efforts by a state or its political subdivision to protect species or its habitat, as well as predator control, ESA listing decisions are frequently made without full cooperation of state and local governmental entities. As a result, listing decisions often fail to take into account the best sources of information on the species.

For example, the FWS cited “[I]nadequate” local, state, and Federal regulatory mechanisms in its November 20, 2014 listing decision on Gunnison sage grouse (“GUSG”). In doing so, the agency ignored: rising population numbers; a rangewide conservation plan; local working groups and conservation plans; Candidate Conservation Agreements and scores of conservation easements. The state of Colorado estimates nearly \$50 million in conservation efforts have gone toward GUSG conservation. Colorado, joined by Gunnison County and others, challenged the GUSG listing in Federal court.

FWS has also refused to cooperate with states and local governments on its Mexican wolf recovery efforts. The state of New Mexico challenged the agency in Federal court based on its refusal to work with the Fish and Game Commission on a state permit to reintroduce wolves. The District Court ruled for New Mexico, but unfortunately the Tenth Circuit Court of Appeals overturned the decision. In another disappointing Tenth Circuit decision, the Court recently held the Commerce Clause authorized regulation of a listed species (Utah prairie dog) in a single state. Legislative updates to the ESA are sorely needed.

#### *Best Available Science*

Pursuant to Section 4(b)(1)(A) of the ESA, “The Secretary shall make determinations . . . solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species . . . .” A determination must be based on proven data—not conjecture. Yet the very definition of best available science has come under scrutiny in several recent cases due to the increasing use of speculative long-term climate change modeling.

The listing decision on greater sage-grouse provides another example. There, a single report (the USGS Monograph) was cited nearly 300 times. Unfortunately, the Monograph is highly flawed and fails basic standards of quality, objectivity and integrity.

Amendments to the ESA must ensure the agencies truly utilize the best available science.

THE WESTERN STATES SUPPORT UPDATES TO THE ESA

The Western Governors' Association ("WGA") has been actively seeking ESA reform for several years, and, to that end, launched the Western Governors' Species Conservation and Endangered Species Act Initiative. In its Policy Resolution 2017-11, WGA identified seven changes needed to improve the ESA:

1. Setting clear recovery goals for listed species and working actively to de-list recovered species;
2. Increasing the regulatory flexibility of the Service to review and make decisions on listing petitions or to change a species' listing status;
3. Utilizing the cooperative efforts of Federal agencies and state governments and private landowners;
4. Using the best available science in listing decisions;
5. Ensuring funding and incentives for conservation;
6. Determining a set definition for the term "foreseeable future" (in particular relative to climate change); and
7. Permitting state and local governments to be full partners in agency decisions, as these entities are the best repositories of current available information and science regarding the wildlife within their borders.

*Legislation would Redress Significant Flaws with the Act*

H.R. 2603 ("Saving America's Endangered Species Act" or "SAVES Act")—seeking to amend the ESA to provide that non-native species in the United States shall not be treated as endangered species or threatened species for purposes of the Act.

H.R. 424 ("Gray Wolf State Management Act of 2017")—directing Secretary to re-issue final rules published in 2011 and 2012 which removed the Western Great Lakes region and Wyoming gray wolf populations from the List of Endangered and Threatened Wildlife. Note: Bill provides that "such reissuance shall not be subject to judicial review."

76 Fed. Reg. 81666 (2011)—"removing the [Western Great Lakes Distinct Population Segment] from the List of Endangered and Threatened Wildlife. We are taking this action because the best available scientific and commercial information indicates that the [Western Great Lakes Distinct Population Segment] does not meet the definitions of threatened or endangered under the Act."

77 Fed. Reg. 55530 (2012)—"The best scientific and commercial data available indicate that gray wolves (*Canis lupus*) in Wyoming are recovered . . . [We are] remov[ing] the gray wolf in Wyoming from the Federal List of Endangered and Threatened Wildlife . . . and remov[ing] the Yellowstone Experimental Population Area established in 1994 to facilitate re-introductions" relating to gray wolves in Western Great Lakes region and in Wyoming.

H.R. 717 ("Listing Reform Act")—amending ESA to require review of the economic cost of adding a species to the list of endangered species or threatened species. Furthermore, the ESA shall be amended to strike the Section 4(b)(3)(A) clause requiring the Secretary to make a finding within 90 days. This Bill also amends the ESA to permit prioritization review of listing petitions, amends the requirement to make a determination within 12 months to "as expeditiously as possible."

H.R. 2109 ("Endangered Species Litigation Reasonableness Act")—conforming citizen suits brought under the ESA to conform with other existing law. Namely, this amends Section 11(g)(4) to award costs of litigation not to "any party," but rather to "any prevailing party in accordance with section 2412 of title 28, United States Code [Equal Access to Justice Act]."

H.R. 1274 ("State, Tribal, and Local Species Transparency and Recovery Act")—requiring that all data upon which endangered and threatened listing decisions are based be made available to those states which are affected by those determination. Namely, this amends Section 6(a) in that such transparency of information is to be

included in a Federal agency's cooperation with the states. Furthermore, "best scientific and commercial data available" shall include "all such data submitted by a state, tribal or county government."

#### OTHER NEEDED UPDATES

##### *Stifling Conservation Work*

A common thread in dealing with these issues is the need to mitigate impacts for regulatory compliance. But, incredibly, agencies like the BLM are requiring permitting and red-tape even for projects that improve or enhance habitat. National Environmental Policy Act ("NEPA") compliance, along with the ESA, is stifling conservation work.

For listed species, activities that require Federal permits, licenses or authorizations require consultation with the FWS under Section 7 of the ESA. This can result in significant delays and costly project modifications. For example, surveys may be required for some listed species that are not present for significant months out of the year. And existing Federal permits, licenses or authorizations could be subject to reinitiation of consultation upon new listings or information. Finally, some actions on public or private lands could be construed to "take" listed species or their habitat under Section 9 of the ESA. Violations of the ESA are subject to substantial civil and criminal penalties.

##### *Recovery Goals*

Moving goalposts have become a hallmark of recovery goals. An example of a problematic listing and recovery process is that of the Mexican gray wolf. While the recovery process for this subspecies has similarly been characterized by lack of cooperation with state agencies, it is marked by a failure to rely on best available science and failure to set population benchmarks by which recovery success could be measured. In fact, while the Mexican gray wolf has been listed under the ESA since 1976, only as of the issuance of the June 30, 2017 Draft Revised Recovery Plan has FWS set recovery benchmarks to aid in determining when the subspecies will be eligible for de-listing.

#### HOLSINGER LAW, LLC LITIGATION

I have been involved in approximately one dozen Federal cases over the past 13 years on behalf of agriculture, counties, oil and gas, trade associations and other clients. Many of these were actions to intervene in litigation filed by environmental groups. Others were Freedom of Information Act ("FOIA") cases where agencies refused to divulge information that should have already been public. Recently, Holsinger Law, LLC represented four Colorado counties in challenging Obama administration land use plan amendments on greater sage-grouse. Among other things, the counties allege state and local plans and conservation efforts were ignored in favor of eleventh-hour mandates from Washington, DC.

#### CONCLUSION

The ESA must be amended to require definite recovery goals and examine the true cost of regulation under this powerful statute. Listing determinations should be prioritized with adequate time to solicit information from states and local governments to truly utilize the best available science. The perverse incentives for litigation must be removed. At the same time, efforts to incentivize private conservation should be maximized. Finally, decisions should be based primarily at the state and local government levels.

Now is hardly the time for "business as usual" under the ESA. Listings are frequently proving more harmful than beneficial to the listed species. Scarce resources are being wasted on litigation driven by a handful of activist groups with little or no real conservation benefits. While some activist groups have posited that Congress aims to weaken the ESA and strip protections, such statements could not be more disingenuous. The ESA is not a perfect law, and this fact has been borne out through the low rate of species recovery, the numerous highly contested listing decisions, and the high costs of ESA litigation. Both people and wildlife would benefit from improvements to the ESA, NEPA and other Federal laws. Congress and the Administration should be working to reduce frivolous litigation, streamline permitting to promote on-the-ground conservation efforts, alleviate economic burdens and promote jobs. Thank you again for the opportunity to testify.

QUESTIONS SUBMITTED FOR THE RECORD TO KENT HOLSINGER, MANAGER AND  
FOUNDER, HOLSINGER LAW, LLC

**Questions Submitted by Rep. Bishop**

*Question 1. During the hearing, Rep. Polis characterized Secretary Zinke's review order on land use plan amendments for sage grouse as a Washington, DC affront to the wishes of states and local governments. How would you respond to this?*

Answer. It is astonishing and disappointing how out of touch Congressman Polis is on this issue. The Obama administration perpetrated one of the greatest land grabs in U.S. history through its heavy-handed Washington, DC mandates in the name of greater sage-grouse. Wildlife management is a state issue. Yet, the Obama administration amended 98 land use plans across 11 Western states to virtually block multiple uses of our public lands.

On August 13, 2012, five Colorado Counties and two conservation districts complained bitterly that their input in the process had been ignored in favor of top-down, one-size-fits-all direction from Washington, DC. See attached letter to BLM State Director Helen Hankins.

[The letter follows:]

August 13, 2012

Helen Hankins  
Bureau of Land Management  
Colorado State Director  
2850 Youngfield Street  
Lakewood, Colorado 80215-7093

Re: BLM's Greater Sage-Grouse Environmental Impact Statement

Dear Director Hankins:

The undersigned local governments have been participating in the regular Greater Sage-Grouse Cooperating Agency meetings that the Bureau of Land Management (BLM) hosts. We are particularly appreciative of the magnitude of the planning effort BLM is directed to undertake. We are even more appreciative of the candid straight-forward information BLM has shared during Cooperating Agency meetings. Although we plan to continue participating in the process, we are deeply concerned the process does not accommodate the mandates that BLM consider the views of local governments as envisioned under the Federal Land Policy and Management Act (FLPMA) or the National Environmental Policy Act (NEPA).

Since before the first Cooperating Agency meeting May 18, 2012, many participants have publically raised concerns about the BLM giving little deference to existing sage grouse planning documents which we have spent years developing. We have also commented on the too-narrow range of alternatives which BLM will be analyzing, and specifically that the alternatives BLM is considering do not balance the basic need of grouse conservation and social and economic growth within our jurisdictions.

As various situations have arisen in Cooperating Agency meetings, it is apparent that BLM is bound by parameters that reflect advance decisions by BLM on the preferred alternative while not addressing the scientific controversies regarding the status of sage grouse populations. These parameters are also not consistent with the needs within our respective communities. From the outset we believed the National Technical Team (NTT) Report supported an extreme grouse-conservation alternative, warranting analysis as an extreme alternative. Then a few weeks ago, we learned that the Washington Office of BLM had directed BLM to consider an even more conservation-oriented alternative, one that makes the NTT report look "middle of the road." When local governments requested an equally balanced alternative providing for the current development of oil and gas, recreation uses, and grazing resources, we were constrained to modifying the NTT Report. This direction flies in the face of NEPA's mandate that BLM consider a range of reasonable alternatives. A balanced use alternative should be among those analyzed in the Draft Environmental Impact Statement. In addition, the NTT report focuses on limiting ground disturbance to a 3% threshold in primary grouse areas which will drastically affect the economies of NW Colorado. We do not support BLM Washington defining what constitutes disturbance in solely Washington driven committees, rather, BLM should use its Cooperating Agencies to determine disturbance definitions.

BLM's parameters directed from the Washington BLM Office provide little opportunity for meaningful input from local governments. These limits ensure that BLM does not address consistency with local government plans, the broader multiple use

mandates of FLPMA and other Federal laws, use only peer-reviewed quality data, or explore the scientific controversies regarding conservation of the sage grouse. We are even more concerned that Washington has already determined the preferred alternative that BLM must select, hence the limited latitude given to the Cooperating Agencies.

In addition to the limitations BLM has placed upon the land use planning process, we are deeply concerned about the unrealistic timeframe for completing the Sage Grouse Environmental Impact Statement. A Draft Environmental Impact Statement is scheduled to be published by the spring of 2013, across Northwest Colorado, much less 11-western states with insufficient time to meaningfully involve the stakeholders. The short time-frames will drastically limit the quality of the document, and more importantly the level of protection the sage grouse receives. We fully recognize these timeframes can be traced back to a 2011 court decision dictating such timeframes, but nevertheless find them ridiculously burdensome, and impossible for BLM to adequately address such a complex issue.

We recommend first that BLM return this process to what the law requires, which is close coordination with state and local governments. Second, BLM must develop a balanced-use alternative that includes and reflects state and local government conservation efforts, not just federal agency viewpoints. Third, BLM needs to secure an extension of time, because the EIS will be challenged and short-cutting the process will only end in failure, and finally BLM must immediately involve the Cooperating Agencies in defining what constitutes ground disturbance.

Sincerely,

Garfield County Commissioners  
Jackson County Commissioners  
Routt County Commissioners  
White River Conservation District

Moffat County Commissioners  
Rio Blanco County Commissioners  
Douglas Creek Conservation District

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No fewer than 283 state and local governments, entities and individuals protested the plan amendments. Nine governors of the affected Western states provided Consistency Review letters and five states appealed the BLM's responses. There are no fewer than nine lawsuits against the land use plan amendments—including one brought by our clients, Garfield, Jackson, Moffat and Rio Blanco Counties.

Secretary Zinke ordered a review of the land use plan amendments to ensure that they address the concerns of states, local governments and stakeholders. I believe the majority of states, local governments and stakeholders are extraordinarily grateful to Sec. Zinke and the Trump administration for this desperately-needed review.

On April 3, 2017, the Moffat County Commissioners expressed its appreciation to President Trump relative to his actions to reduce regulatory burdens. See attached letter to President Trump. The Commissioners pointed out that industry and environmental conservation are compatible and that the Obama administration land use plan amendments were "driving a stake in the heart of the viability of our local industries, and immediate action from your administration is requested."

[The letter follows:]

MOFFAT COUNTY COMMISSIONERS

April 3, 2017

Mr. Donald J. Trump  
President of the United States of America  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Trump:

The Moffat County Commissioners would like to express our appreciation for the recent Presidential Executive Orders and actions to provide a more business friendly environment for energy development. We were especially pleased when Roz Leighton your Regional Political Director, White House Office of Political Affairs reached out to Commissioner Moe to discuss your recent rollback of Obama's Clean Power Plan. After hearing of our unique circumstances she immediately connected us with Billy Kirkland, Special Assistant to the President, Deputy Director, Intergovernmental Affairs. While we are extremely pleased with your bold actions, time is not on our side and northwest Colorado requests special attention from the Trump Administration.

In Moffat County, 81.3% of our voters supported President Trump, largely because our community knows we are the epicenter of past president Obama's desire to destroy fossil fuel energy industries. Energy related companies make up all of Moffat County's top 10 Taxpayers. Of Moffat County's \$410 million assessed value, 72% of that is from energy related companies. Moffat County is the second largest county in Colorado, just over 3,000,000 acres in size, and over 60% federally owned surface and over 80% federally owned minerals. There are four coal mines and two coal fired power plants, along with immense oil and natural gas resources within an hour drive of our county seat. We host the largest Greater Sage Grouse populations in Colorado, the largest elk herds in North America, world class big game hunting, and endangered fish in one of the last undammed rivers in Colorado. Our livelihoods depend on utilizing the natural resources, but face constant onslaught of rules and regulations driven from the environmental movement and implemented by the Obama administration, which have a crippling effect of our local economy. The "war on coal," oil and natural gas has been extremely detrimental to our economy. These past eight years have taken their toll economically and emotionally on us all. Because of you and your administration we are now turning optimistic.

Moffat County has dozens of examples where we have demonstrated that industry and environmental conservation and enhancement can simultaneously thrive. However, regulations such as the newly adopted Greater Sage Grouse Plan from the Bureau of Land Management are driving a stake in the heart of the viability of our local industries, and immediate action from your administration is requested.

Attached are three links to youtube videos and news articles that describe the "perfect storm" of over regulation crippling our economy, which we request support from your office:

<https://www.youtube.com/watch?v=Om207kbe6XI>

<https://www.youtube.com/watch?v=npZntUn8JMU>

<http://www.usatoday.com/story/news/politics/elections/2016/11/04/coal-mining-craig-colorado-election-day-hillary-clinton-donald-trump/93235678/>

We would like to discuss with you and your staff, our suggestions on how to move forward protecting the environment while simultaneously allowing our local and regional energy industry to thrive. Moving forward will take support from the Trump administration, and we look forward to discussing this with you at your earliest convenience.

Respectfully,

*Franklin A. Moe, Chairman*  
Moffat County Commissioner

*Don Cook, District 1*  
Moffat County Commissioner

*Ray Beck, District 2*  
Moffat County Commissioner

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*Question 2. Representative Polis noted that the Endangered Species Act conferred economic benefits.*

*2a. Would you say that the Endangered Species Act provides economic benefits to states, local governments, or private entities?*

Answer. Prior to Congressman Polis' participation in this hearing, the words "economic benefits" and "listing under the Endangered Species Act" may never have been uttered together. There's an old adage that, if one discovers a rare mineral on his or her property, the land becomes much more valuable; yet, if one discovers a rare species, the land becomes valueless.

The Endangered Species Act ("ESA") has long been recognized as a hindrance not only to economic activity, but to on-the-ground wildlife conservation. In one of our coalition efforts, a single business had to spend in excess of \$1 million on a single consultation over a single species on Colorado's front range. In addition, the business had to spend nearly \$300,000 per year in annual monitoring efforts after the consultation. According to the Western Area Power Administration, restrictions on reservoir operations for ESA and related issues at Glen Canyon dam have cost an estimated \$50 million annually<sup>1</sup> with additional impacts following 2016 permitting

<sup>1</sup> <https://www.wapa.gov/regions/CRSP/environment/Documents/PostRODFinal.pdf>.

of an estimated additional \$104 million cost. This does not include the cost of similar restrictions at Flaming Gorge and the Aspinall Unit reservoirs.

In a 2005 Report, the House Resources Committee estimated that implementation of the ESA costs businesses, individuals and local governments nearly \$3 billion annually. Interestingly, that same year, the National Marine Fisheries Service estimated non-native species were the cause of endangerment of some 48 percent of listed species at a cost of more than \$120 billion in 2005 alone.<sup>2</sup> The economic analyses required in critical habitat designations paint a similar picture of the staggering cost of ESA listings.

*2b. Would the ability of the Secretary to consider economic impacts in designations of threatened species actually benefit species conservation and motivate states, landowners and industry to conserve the species and keep it off the list?*

Answer. Economic analysis has been part of critical habitat designations for many years. Unfortunately, the Obama administration eviscerated this important tool through the rulemaking process. Congress should reinstate robust economic analysis for critical habitat. Such considerations would aid in listing decisions as well.

*2c. From your perspective, would the ability to preclude threatened species listings due to economic factors facilitate higher-quality, innovative listing decisions and petitions for reconsideration that benefit both species and our Nation?*

Answer. Wildlife management is always a balancing act. Currently, implementation of the ESA is a zero-sum game with few opportunities to prioritize. Economic and other factors (such as protecting full species rather than subspecies or population segments) should play a role going forward.

*Question 3. Statutory time frames for agency review of listing petitions have been utilized by litigious environmental groups to make money and paralyze Federal and state conservation efforts. You mentioned that these groups often cause the issues that they subsequently litigate.*

*3a. Can you elaborate how litigious environmental groups utilize the petition process to drum up more opportunities to litigate?*

Answer. The worst actors, including Center for Biological Diversity (“CBD”) and WildEarth Guardians (“WEG”), have been petitioning to list hundreds of species at a time. The agencies simply cannot handle such a burden. As a result, they miss deadlines and CBD and WEG sue, settle over revised deadlines, and collect attorney’s fees at taxpayer expense. These groups are causing the very problems they litigate over. This abuse must stop.

*3b. What are some problems with using settlements to determine how petitions are processed?*

Answer. Using sue and settle litigation, environmental groups can avert the public process and exert special influence on agency decision making. The infamous 2011 settlements over 757 species are a good example.

*3c. The onslaught of listing petitions has prompted several multi-species mega settlements in recent years. Do these types of settlements allow for state involvement in the decision-making process or for appropriate consideration of science?*

Answer. Settlement of litigation is often behind closed doors. Neither the states nor the public have an opportunity to understand or influence the outcome.

*Question 4. Multi-species listings strain agency resources as the different regions work to manage species that may not even need listing in the first place. In your opinion, do these sorts of mega-settlements help species or are they tools for litigious groups to make money?*

Answer. Multi-species listings are a tremendous waste of resources. The ESA provides that any person may submit “a” petition to list. It does not authorize petitions for dozens or hundreds of species at a time. The agencies cannot hope to process such petitions. As a result, they miss deadlines and the radical groups litigate. None of this results in on-the-ground conservation work for species that are truly in need of protection. Instead, it perpetuates a vicious cycle that funds attorneys and litigation at the expense of our communities and our wildlife.

<sup>2</sup> <http://www.endangeredspecieslawandpolicy.com/2016/02/articles/fish-wildlife-service/up-for-debate-whats-the-real-cost-of-endangered-species-predation/>.

The CHAIRMAN. Thank you. I thank our witnesses for your testimony. It is interesting to know the last time we worked on this Act, I had color in my hair, Louie actually had hair, and Raúl was still a hippie.

[Laughter.]

The CHAIRMAN. So, we are at the right stages right now, yes.

I appreciate that. We are going to open the Committee process. By Committee Rules, we have 5 minutes to ask questions of that. Once again, I will ask Committee members to be kind to our witnesses, that if you are going to ask a question, at least give them 30 seconds before the end of the time. Because once again, I will stop you when the 5 minutes are over. And I will try and set the standard myself by asking the first questions.

In the Huizenga bill—and you can start me now—the attorney fees are capped for these well-funded groups you have mentioned in there, and allows only prevailing parties to collect them, which is what we do with other groups right now, like the elderly and low-income individuals, as well as veterans.

Mr. Holsinger, first of all, would a cap in attorney's fees, allowing only prevailing parties to collect them, in your opinion, lessen the incentive for environmental groups to file these needless lawsuits?

Mr. HOLSINGER. Absolutely, Mr. Chairman. This is an excellent way to, I think, end some of these perverse incentives.

The CHAIRMAN. You also mentioned in your testimony the statutory time frames for agency reviews of listing petitions, and that has become a tool to make money and paralyze Federal and state conservation efforts. Would more agency flexibility and petition deadlines—once again, provided in the Olson bill—would that help curb this excessive litigation?

Mr. HOLSINGER. Yes, Mr. Chairman. In fact, the vast majority of this litigation is over those deadlines. So, giving the agency some additional flexibility could be a tremendous help.

The CHAIRMAN. Mr. Sheehan, would fewer lawsuits benefit your agency, alleviate pressure on the resources that you are trying to find?

Mr. SHEEHAN. Absolutely, Mr. Chairman. When we have to redirect our resources from doing conservation on our wildlife and plant species in favor of researching and working on litigation actions, that certainly detracts from our ability to protect those species.

The CHAIRMAN. OK, thank you. Comptroller Hegar, you know, Texas has its own program. Texas has been empowered to study species, conserve them, and has succeeded in many of the things, in keeping species off of the list. In Representative Olson's bill, it adds consideration of economic factors.

Can you explain how considering economic impacts and species conservation can work together and go hand in hand?

Mr. HEGAR. Yes. Thank you, Mr. Chairman. The two go hand in hand because when you look at, for example, a river. If, as we are studying today, we are spending \$3.6 million on mussel research in four different river basins in Texas. When you look at the health of the mussels, there are also economic considerations, whether it is in the Austin area with folks that utilize the river for recreational purposes, or whether it is municipal purposes, industrial

purposes, downstream, which was in my old Senate district, so you have a convergence of all these interests coming together.

Then, as a background, as an individual who grew up on a family farm and is still actively engaged in that farming operation, as was said earlier, we are the best stewards. We want to make sure there is wildlife. We want to make sure there is that economic impact, because you also derive income from having that economic impact.

So, it is all intertwined, and it is extremely important to take in the economic considerations, because you don't want to shut down, say, for example, the Permian Basin. And we have done a significant job in the habitat conservation plan out there with the dunes sagebrush lizard, and allowing that economic activity to continue to grow in the Permian Basin.

The CHAIRMAN. Great. I appreciate what Texas has been doing.

Mr. Willms, the Western Governors Association has recommended greater state participation in these processes, endangered species processes, all together. In your experience, has the Federal Government—realizing once again the Federal Government still is personality driven, one of the problems that we do have—but has the Federal Government been transparent in the data that it uses in making their decisions?

Mr. WILLMS. Mr. Chairman, I would say as transparent as they can be, although we often don't see the data released.

I think there are other issues with respect to data transparency that are worth looking at. For example, some copyright issues about some of the challenges we face, the Service telling us they cannot release information or particular studies because of copyright concerns with the authors.

The CHAIRMAN. Well, what about state and local-driven data? Has that been effectively used in the past?

Mr. WILLMS. There are always better ways to use, or more effective ways to use state data and locally given data. We have been asking for years for the opportunity to be consulted as early on in the process as possible, to be able to provide all the data that we might have on a species to better inform decision making for the agency. And many times that is not considered.

The CHAIRMAN. That is the purpose of the Newhouse bill. It is to try to make sure there is transparency and greater ability of having other entities provide this data. In your opinion, would that be a benefit to species recovering a listing decisions process?

Mr. WILLMS. It is certainly beneficial for the Service to have all available data and all state data that it might have when it is trying to make a decision based on the best available science. It would be helpful to have all available science.

The CHAIRMAN. OK. And Greg, I have one last question for you, but I only have 11 seconds left, so I am not going to ask it. I will yield back and recognize Mr. Grijalva.

Oh, wait. Before you start, I would also ask unanimous consent that Mr. Grijalva—is here.

Mr. GRIJALVA. Thank you.

[Laughter.]

The CHAIRMAN. No, no, that is not what I want. I ask unanimous consent that Mr. Polis is allowed to join us and participate in the hearing.

And we also have a new member of the Committee, if you would like to introduce him.

Mr. GRIJALVA. Thank you very much, Mr. Chairman. Yes. It is indeed a great pleasure to welcome a new member on our side of the aisle, Representative Jimmy Gomez.

Mr. Gomez will be joining this Committee coming from California and bringing with him a considerable expertise on the issues that this Committee deals with through all its processes, and a background in air quality issues, water quality issues in California, environmental issues, including environmental justice issues in California. We welcome him. We are delighted to have Representative Gomez part of this Committee and on our side of the aisle.

Jimmy is a child of an immigrant family, just like me. But, unlike me, he holds a master's degree from Harvard. We welcome him to the Committee.

And for California, who is terribly under-represented on this Committee, it brings additional parity to the membership.

Mr. Gomez, welcome. Looking forward to working with you, sir.

The CHAIRMAN. It looks like four too many right now. Thank you, Representative Gomez. I appreciate you being part of the panel.

Those were your questions, right? You yield back?

Mr. GRIJALVA. Not yet. Give me 5 minutes. Was that long?

Thank you, Mr. Chairman.

Mr. Sheehan, we have not had an opportunity to visit with you before. I look forward to that opportunity in your new position.

Following the admonition of the Chairman, trying to ask questions and ask for yes or no or any elaboration that is short, trying to get through the questions that I have, I appreciate that.

I was also struck by the analogy that you used regarding health care in the hospital, in terms of endangered species and recovery and moving the patient out. I see the Endangered Species Act akin to a government program like Medicaid that promotes health care to the most vulnerable amongst us. And, in doing so, provides those vulnerable populations that we live with in this country an opportunity to have health care. Because, without it, one would suspect and surmise that those very individuals, 25 million, would be endangered, as well. So, there is a similarity and an analogy that we can use there.

Mr. Sheehan, do you believe that decisions regarding species listing, de-listing, and recovery under ESA should be based on science or politics? You can answer one way or another. One word answer, if you can, yes or no. You can elaborate a tad.

Mr. SHEEHAN. Absolutely, science is the way that should be addressed.

Mr. GRIJALVA. Thank you, sir. Do you believe that Federal management of threatened and endangered species is appropriate and reflects the intent of Congress and the valid interest of all Americans and their quest in preventing extinction?

Mr. SHEEHAN. Is that still directed to me? I wasn't sure.

Mr. GRIJALVA. Yes, sir.

Mr. SHEEHAN. I am sorry, could you re-say that a little bit?

Mr. GRIJALVA. Do you believe that the Federal management of threatened and endangered species is appropriate and reflects the

intent of Congress and the valid interest of all Americans in preventing extinction?

Mr. SHEEHAN. I believe that the Federal Government was given authority to oversee these species when they are in a critical status and placed on the endangered species list. But as those recovery objectives are defined by scientists and achieved by scientists, I absolutely believe that management of that needs to go back to the states, who are not only doing most of the management for the endangered species on the list, but also for all of the other many thousands of species that are not on the list.

Mr. GRIJALVA. And one more yes-or-no, if possible, Mr. Sheehan. Do you believe that climate change is real and is impacting threatened and endangered fish and wildlife?

Mr. SHEEHAN. I believe that climate change does exist and has for a very long time. Does it impact some of our species? Yes, it does impact some of the species. But how we factor that into our decision-making process is one that is much more complicated.

Mr. GRIJALVA. Thank you, sir.

Mr. Corwin, you have seen wildlife all over the world, including elephants in Africa and other species that are subject to relentless poaching and trafficking. H.R. 2603 would remove ESA protections from any non-native wildlife or wildlife products that happen to be in the United States. What would the impact of this bill be on illegal wildlife trade?

And does this bill overturn the recent ban on African elephant ivory in the United States?

And who profits from this legislation, trans-national networks that rely on illegal wildlife and timber trade for income?

Those are three that you can elaborate in the half-a-minute or more that we have.

Mr. CORWIN. The black market trade of wildlife is profound. It is a \$20 billion-a-year industry. It is second only to arms and drug trade. And the status of a creature, a species, as endangered does not change as it moves from one border to the next.

We have the CITES, which we use to protect species internationally, and various appendixes, and a tiger is still critically endangered, whether it is in the United States or whether it is in another country. And we globally have a responsibility as stewards to ensure that these species have the best opportunity to survive.

Mr. GRIJALVA. Thank you, sir. I yield back.

The CHAIRMAN. Thank you. With that I will turn to Mr. Gohmert for questions.

Mr. GOHMERT. Thank you, Mr. Chairman. I would first point out I have more than 20 letters here in support of relieving the conservation-stifling regulation of non-native endangered species that we provide in H.R. 2603.

I have a letter from the National Aquaculture Association, whose 5,500 members' farms not only provide jobs, but have an annual farm-to-gate income of \$1.6 billion. And that is all legal, no illegal trade at all. The NAA states that the listing of non-native species is duplicative, hampers commerce, and oppresses conservation.

A letter from Mickey Ollson, the Director of the Wildlife World Zoo, the largest zoo and only aquarium in Arizona, with half-a-million guests annually, and he states that captive breeding

programs are stifled by the redundant listing of non-natives in the endangered species list.

The American Federation of Aviculture, a non-profit organization writes on behalf of their 5,000 members to describe the impact of these current regulations. If a collection manager in Missouri would like to bring a new bloodline into the macaw collection from Pennsylvania, current regulations would prevent that.

I have a letter from the U.S. Association of Reptile Keepers, writing in support of H.R. 2603, asking the question, "How is making it illegal to share education about ESA-listed non-native spotted pond turtles . . . by banning the sale of domestically hatched turtles across state lines helpful to conservation of the species?"

A letter from Mr. Doug Kemper, who is the Founding Director of the Seattle Aquarium, the Aquarium at Moody Gardens in Galveston, the Oklahoma Aquarium, and now is the Executive Director of Medicine Park Aquarium in Medicine Park, Oklahoma. He writes that the SAVES Act, H.R. 2603, will make conservation great again, that the ESA imposed arbitrary geographic boundaries that created genetic islands within the states. The ESA rendered each state, essentially, a country for the purposes of movement of captured endangered species.

A letter from the Endangered Species Propagation Survival and Research Center, who houses the largest herds of Arabian oryx, slender-horned gazelles, in the United States. They write that the current ESA regulation of non-native species is anti-conservation because the population of said species in captivity is so small, genetic diversity via unabated interstate exchange among the population is critical to their continued existence.

Finally, I have a letter from the Zoological Association of America, one of the largest trade associations of the industry. They promote responsible ownership, management, and conservation, and they write that their members "rely on the ability to move individual animals among collections to best maintain a robust, captive population to provide the best opportunities for successful breeding of endangered species. The onerous and prohibitive regulation of captive-bred, non-native species under the ESA is counter-productive to conservation efforts."

Mr. Chairman, I would ask unanimous consent that all of these letters in full support of the SAVES Act be entered into the record.

The CHAIRMAN. Without objection.

[The information follows:]

**Rep. Gohmert Submission—Letters of Support for H.R. 2603**

ALABAMA GULF COAST ZOO

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

The SAVES Act, H.R. 2603, is fully supported by the Alabama Gulf Coast Zoo. H.R. 2603 removes duplicative and onerous regulation, enhances conservation, and is just plain common sense.

Since 1989, the Alabama Gulf Coast Zoo has provided unique opportunities for up close encounters with some of the world's rarest animals. We are dedicated to conservation, education and animal care. From humble beginnings, the zoo found to fame as Animal Planet's "The Little Zoo that Could," and we are currently building

a new facility. We pride ourselves on educating the public about conservation and the importance of endangered species while offering hands-on experiences with our collection. More than 220,000 visitors annually take advantage of the experience we offer.

Our zoo works extensively with endangered species breeding facilities and we depend on easily moving animals into and out of our collection to continue to provide families with once-in-a-lifetime experiences where they can not only learn about these endangered species, but learn to love them, and consequently to conserve them throughout their lifetimes. The current duplicative regulation of nonnative species severely prohibits our ability to provide these educational opportunities in conservation for our guests.

It is simply not in the interest of conservation of nonnative endangered species to list them under the ESA.

I strongly support H.R. 2603 to remove this duplicative regulation and to enhance conservation efforts in captive populations.

Sincerely,

PATTI HALL,  
*Director.*

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THE AMERICAN FEDERATION OF AVICULTURE, INC.

July 6, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I write to you on behalf of the more than 5,000 members and associated members of the American Federation of Aviculture, Inc. (AFA) in support of H.R. 2603—the SAVES Act.

The AFA is a nonprofit national organization established in 1974, whose purpose is to represent all aspects of aviculture (Bird Breeding) and to educate the public about keeping and breeding birds in captivity. Our membership consists of bird breeders, pet bird owners, avian veterinarians, pet/bird store owners, bird product and food manufacturers, farmers, zoos, and other people interested in the future of aviculture. The AFA is dedicated to the promotion of aviculture and the conservation of Avian Wildlife through the encouragement of captive breeding programs, scientific research and the education of the general public. The goal of AFA is to ensure long-term, self-sustaining populations of exotic birds both in captivity and in the wild. The AFA promotes population management and cooperative breeding programs to ensure the long-term survival, health, and genetic diversity of birds in captivity. Aviculture indirectly contributes to conservation of wild populations by providing a supply of healthy pet birds replacing the need to harvest exotic birds from the wild habitats for this purpose. Over the years AFA has participated as a non-governmental organization supporting the goals and objectives of both the Endangered Species Act and the Convention on International Trade in Endangered Species (CITES).

The duplicative regulation of nonnative species by the Endangered Species Act (ESA) seriously hinders conservation by virtually prohibiting the interstate sale and movement among collections even as managers work to maintain robust genetic diversity. If a collection manager in Missouri would like to bring a new bloodline into their macaw collection from a collection in Pennsylvania, current regulations are so onerous as to bring that plan to a full stop.

CITES, currently consisting of 183 nations, regulates the international movement of endangered and threatened species, effectively protecting endangered species from commercial international trade. Virtually all exotic species currently held by private individuals and public zoos in the United States have come to the U.S. through the monitored trade of the CITES convention. Therefore internal regulations such as those under the ESA are duplicative and unnecessary and only place undue restrictions on citizens with legally held species. The current regulations under the ESA basically treat each State as if it were a separate country for the purposes of animal movement!

For more than four decades, nonnative species conservation has been stifled by redundant ESA listings and the genetics of very important species are congested into State locales where they are prohibited in interstate trade by the ESA.

H.R. 2603 will enhance the conservation and genetics of captive species by allowing for improved genetic diversity among captive populations previously isolated by arbitrary geographic lines; it is time to reverse this error by passing H.R. 2603.

Please do not hesitate to contact me if you have any questions.

Sincerely,

JAMIE WHITTAKER,  
*President.*

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AVICULTURAL SOCIETY OF AMERICA

July 3, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I write you today representing the 450 members of the Avicultural Society of America (ASA) to make sure you know that the ASA strongly supports passage of H.R. 2603, the SAVES Act. For far too long, the duplicate listing of nonnative species on the ESA has stifled conservation efforts in captivity. It is time to finally end the oppression and let conservationists loose to Save our Vulnerable and Endangered Species!

Duplicate listing of nonnative species under the ESA has crippled our members' efforts at conservation through development of robust captive populations—either for intended reintroduction to the wild or as a type of insurance against stochastic events in their native lands. By stifling movement of birds between collections through prohibitive regulation, the genetic diversity of our captive flocks has been hampered.

Indeed, the listing of nonnative species under the ESA is NOT in the interest of conservation.

The ASA was originally founded in 1927 with several laudable missions:

- the study of foreign and native birds
- the dissemination among the members and public of information for the care, breeding and feeding of birds in captivity
- the perpetuation of species that are threatened with extinction
- the publication of matters pertaining to aviculture through "The Bulletin"

Today, the ASA is the oldest, most prestigious and venerated avicultural organization in the United States. ASA boasts members across the United States as well as in other countries. Our members are currently keeping and breeding virtually every type of bird found in aviculture.

Perhaps most important of all, ASA does things that are good for birds in the wild as well as those in aviculture. Consider species such as the Scarlet-chested Parakeet, the California Condor, the Black-hooded Red Siskin, the Nene Goose and many others where, due to successful avicultural techniques, there are probably more individuals in aviaries than exist in the wild. Aviculturists have saved these species from almost certain extinction and many of our members' birds have been used in reintroduction efforts in the wild.

The ASA supports the passage of H.R. 2603 to enhance conservation and eliminate redundant government regulation that is prohibiting conservation.

Sincerely,

CAROL STANLEY,  
*President.*

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ROBERT J. BERRY,  
HOUSTON, TEXAS

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I strongly urge passage of H.R. 2603, the SAVES Act, to remove ALL nonnative species from the Endangered Species Act (ESA).

The listing of nonnative species under the ESA, when they are already protected from international trade within CITES (Convention on the International Trade in Endangered Species of Wild Fauna and Flora), is an unnecessary redundancy in that regard. The listing of nonnative species under ESA also tends to dilute the focus and attention on protections of our native U.S. species for which the Act was originally intended, as well as funding and enforcement oversight for those efforts.

Such restrictions also negatively impact the ability to establish long-term, self-sustaining captive populations of non-native species within the U.S. avicultural community that could potentially provide critical genetic diversity that may be needed in the future to help bolster or re-establish wild populations that are imperiled.

While serving as the Houston Zoo's first curator of birds (1972–1987) as well as my lifetime of experience as a private sector aviculturist, I have advocated the importance of establishing long-term, self-sustaining captive populations as a valuable conservation tool.

Respectfully submitted,

Robert J. Berry

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DALLAS SAFARI CLUB

July 12, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Mr. Gohmert:

On behalf of the more than 6,000 members worldwide of the Dallas Safari Club, I am writing to express the Club's enthusiastic support for H.R. 2603, the SAVES Act. The SAVES Act removes duplicative and oppressive regulation of endangered species while leaving in place the protections for endangered species provided under the Convention on International Trades in Endangered Species (CITES).

Since 1982, the Dallas Safari Club's (DSC) mission has been to conserve wildlife and wilderness lands; to educate youth and the general public and to promote and protect the rights and interests of hunters worldwide. DSC funds mission-driven programs annually: quail research, desert bighorn sheep reintroduction and habitat enhancement in Texas; moose, elk, stone sheep and caribou projects in British Columbia; elephant and lion projects in Africa.

As you are aware, hunters are some of the most ardent conservationists, both here in the U.S. and abroad. In fact, private hunting operations in Africa control more than 540,000 square miles of land—that is 22% more than is protected by National Parks. In the U.S., the captive populations of some antelope are thriving—specifically three species that were removed from onerous Endangered Species Act (ESA) regulations through legislation. Captive populations of these species have exploded. We believe that it is time to take action to provide that same opportunity for all nonnative endangered species in the U.S. by removing them from the ESA.

America's hunters and ranchers should be allowed to participate fully in endangered species conservation and the SAVES act will provide them with that opportunity by promoting captive populations and allowing sustainable use principles to increase numbers.

H.R. 2603 is a great step toward conservation that the DSC fully supports. Please do not hesitate to contact me if you have any questions.

Sincerely,

CRAIG NYHUS,  
*President.*

## ENDANGERED SPECIES PROPAGATION, SURVIVAL &amp; RESEARCH CENTER

July 11, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

My family has ranched in West Texas for 4 generations. I operate one of the larger ranches in this area covering 37,000+ acres. We produce or have produced meat goats, sheep, cattle, horses and exotic hoofed-stock. I founded and served as President of the American Meat Goat Association and am a long-time member of the Exotic Wildlife Association, which believes strongly in conservation of animal species through commerce. My ranch has been home to the largest herds in the U.S. in the past decade or so of the exceedingly rare and endangered Arabian oryx, *Oryx leucoryx*, slender-horned gazelle, *Gazella leptoceros*, and Persian onager, *Equus hemionus onager*. ESPSRC, Inc. has repatriated more than 150 Arabian oryx to the Court of the Crown Prince (government) of the United Arab Emirates (UAE) to aid in repopulating the oryx to their native habitat where they had become extinct decades ago.

The listing of non-native species in the Endangered Species Act (ESA) has never been and is NOT now conducive to any degree of conservation of said species, let alone conservation through commerce. Because the population of said species in captivity is so small, genetic diversity via unabated interstate exchange among the population is critical to their continued existence. ESA's listing of the above species and the resulting regulatory requirements has made introduction of novel genetics into my herds significantly difficult. Thus, the maintenance of a genetically diverse captive population of these species was and is not supported by current ESA regulations. However, the passage of H.R. 2603 would lift this oppression and enhance conservation opportunities for all non-native endangered species currently hampered by the inclusion of said species in the ESA.

Therefore, H.R. 2603 is a bill whose time has come and I strongly support its passage!

Commerce in non-native endangered species supports conservation. The greater the number of individuals employing their private resources to support these valuable creatures being cared for in the U.S., the stronger the population will become. A robust genetically diverse population allows for more repatriation efforts such as those with the Arabian oryx back to their native UAE.

It is time to update the ESA to 21st century conservation principles and to harness private resources for optimum conservation of non-native endangered species. I strongly urge the passage of H.R. 2603! Please do not hesitate to contact me if you have need of further information or have any questions.

Sincerely,

THOMAS S. CARTER,  
*President.*

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EXOTIC WILDLIFE ASSOCIATION

July 12, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

The Exotic Wildlife Association (EWA) supports H.R. 2603—the SAVES Act. This bill will enhance conservation, enhance commerce, and eliminate duplicate government regulation.

Since 1967, when it was founded, the EWA has represented concerned ranchers engaged in exotic wildlife ranching. Our mission is to encourage and expand the conservation of both native and non-native hoofstock, and to help our members develop and strengthen the markets for their animals. We believe the concept of conservation through commerce is the answer to preserving wildlife, and suitable habitat. The EWA represents over 5,000 ranchers and ranching families throughout the U.S. and in several foreign countries that propagate and protect some of the

largest populations of privately owned exotic wildlife. Our member objectives include:

- Protect the rights of private property owners, including, but not limited to, the right to manage and control their own land and the native and nonnative hoofstock living on it.
- Defend the owners of native and nonnative hoofstock species against the misrepresentations and false allegations of animal rights activists.
- Articulate the need for “sustainable utilization” of wildlife, as a viable tool to maintain “proper carrying capacity” on private property.
- Educate policy-makers, the media and the public through research and advocacy.
- Promote “conservation through commerce.”

H.R. 2603 will take the handcuffs off private resources and allow them to fully engage and invest their private resources in conservation of endangered species. In the 21st century, the value of robust captive populations as insurance against habitat destruction has become apparent and no one is better able to provide for these captive herds than our members. H.R. 2603 will allow for more conscientious herd management with a focus on enhanced genetic diversity as each state will no longer be a country for the purposes of interstate movement species. The border will be put back where it was intended and that is at the international border rather than at each state line.

H.R. 2603 is a good conservation policy that EWA fully supports. Please do not hesitate to contact me if you have any questions.

Sincerely,

CHARLY SEALE,  
*Executive Director.*

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FLORIDA AQUACULTURE ASSOCIATION

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I am writing this letter as President of the Florida Aquaculture Association in support of your proposed Save America's Vulnerable Endangered Species (SAVES) Act. Your proposed legislation will appropriately refine the ESA's scope, reduce duplication of regulations, save U.S. taxpayers precious dollars, encourage U.S. commerce and actually enhance non-native species conservation.

The Endangered Species Act of 1973 (ESA) has given protection to many native species. However, the ESA unnecessarily extends protections beyond that of native species to foreign species. Non-native species are already afforded protection under the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES). Almost 200 countries are signatories to these regulations. Each country is in the best position to assess the needs of its own native species populations. The species that need levels of protection are then regulated internationally by the exporting country.

In these times of limited financial resources, duplication of time and effort are not appropriate and in fact are counterproductive. From a Federal perspective, expending time and resources to administer and enforce antiquated policies is wasteful and unnecessary. From a commercial perspective, having to operate under duplicative regulations is costly and inefficient, channeling effort and dollars away from innovation.

The current ESA has other unintended consequences that hamper the U.S.'s goal of reducing the seafood trade imbalance. Because the ESA does not delineate between wild and captive-bred populations, any protections given to non-native wild populations, also apply to the culture and commerce of these non-native species within the United States.

I will use sturgeon as an example. Farm raised non-native sturgeon thrive when grown in the Florida climate. These sturgeon start out as fertilized eggs that are imported from foreign fish farms and are CITES certified as non-detrimental to the wild native stocks. There are many generations separating these fish from the origi-

nal wild stocks and the exporting countries recognize this fact and thus allow for commerce.

A petition was filed in 2012 to list the wild populations of many sturgeon species under the protection of the ESA. This includes several foreign sturgeon species that are currently grown in Florida. If the Final Determination rules in favor of these wild populations, the Florida (and U.S.) non-native sturgeon industry will be forced with closure simply as collateral damage to the original intent of protecting the wild populations in their native ranges. The pending petition has caused farms to close thereby ceding the U.S. market to overseas farms that can sell to the U.S. under a captive exemption provided by CITES and authorized by the ESA. SAVES would eliminate regulation of non-native species and in doing so, would SAVE the U.S. non-native sturgeon industry!

The United States is a leader in pioneering methodologies in raising and commercializing the production of aquatic species through sustainable and environmentally sound aquaculture techniques. U.S. aquaculture benefits conservation by providing a viable marketplace alternative to harvesting of wild stocks, thus reducing the fishing pressures on both the legal and illegal fisheries. In addition, aquaculture allows the academic communities to research topics such as physiology, nutrition, pathology and endocrinology, without disturbing or risking harm to non-native threatened and endangered wild stocks.

Florida aquaculture and U.S. aquaculture is being hindered by the current ESA. I applaud and fully support Congressman Gohmert's efforts to bring the ESA into the 21st century.

Sincerely,

MARTY TANNER,  
*President.*

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FLORIDA TROPICAL FISH FARMS ASSOCIATION, INC.

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I am writing to you to support the proposed "Save our Endangered Species Act" that Representative Gohmert of Texas is planning to introduce. Limiting the treatment of non-native species in the United States as endangered or threatened under the Endangered Species Act (ESA) of 1973 will (1) reduce redundancy and interference among regulations, (2) allow better conservation protections for imperiled species and native ecosystems, and (3) benefit commerce and the U.S. economy.

I represent the Florida Tropical Fish Farms Association an organization of 116 aquarium fish and aquatic plant producers. Thoughtful and well-planned commercialization of foreign aquatic species currently listed under the ESA would greatly benefit my members, U.S. aquaculture as a whole, and the nation.

The proposed Act would achieve numerous conservation, social, and economic benefits.

(1) Regulations—The Convention on International Trade in Endangered Species (CITES) is the recognized international authority for international trade in imperiled species. CITES subjects international trade in imperiled species to controls designed to avoid uses incompatible with the species' survival. Listing under ESA is redundant and in some cases conflicts with CITES mission in that international and U.S. state boundaries become barriers to proper genetic management. Removal from ESA restrictions will further allow states to better manage these non-native species within their borders and permit commercialization.

(2) Conservation—Genetic management is central to conservation of endangered species. Allowing freer movement of species across international and state lines will facilitate increasing genetic diversity of populations. Increasing the number of individuals of these species in conserved populations or in captive-use populations will further increase genetic diversity and improve the outlook of long-term management plans for many imperiled species. On the rare occasions when species that are imperiled in one part of the world threaten native ecosystems in the United States, thoughtful and precise management of these populations will be allowed, unlike under our current regulations.

(3) Commerce—Several foreign species now listed under the ESA would have considerable economic value in U.S. aquaculture and related trade. Captive populations of such species as tropical marine corals, sturgeon, crocodilians, and turtles could increase the value of U.S. aquaculture/agriculture, provide exports for trade, and supply domestic ornamentals, food items, and leather goods to U.S. citizens. An outstanding example of the potential for commercialization of imperiled species going hand-in-hand with effective conservation is the American alligator. Once endangered, this species has rebounded in the wild to the point where wild harvest (commercial and recreational) and culture are commonplace. Culture has greatly assisted the rebound of alligators which today provide meat and hides for domestic and international commerce.

In closing, we appreciate the leadership of Rep. Gohmert in this issue and strongly support the amendment to the ESA. If I or any of our association members can provide any additional information, please let me know.

Sincerely,

JOHN SKIDMORE,  
*President.*

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FLORIDA VETERINARY MEDICAL ASSOCIATION

July 12, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

Representing more than 5,300 veterinary medical professionals in the State of Florida, the Florida Veterinary Medical Association (FVMA) supports the introduction of the SAVES Act. The welfare of our state depends largely on the conservation of our natural resources, and we believe this legislation represents a common sense approach to modernizing the conservation efforts which we have utilized since 1973, under the Endangered Species Act (ESA).

We appreciate its intent to streamline conservation practices with the removal of regulations that protect nonnative species, which in the 1970's, were included in the ESA to assist newly-formed international regulatory agencies to implement the protection of threatened species abroad.

We are supportive of the Act's intent of relinquishing regulatory authority for the movement of nonnative species to states, to increase commerce and economic opportunity through deregulation of interstate movement, and decreasing federal spending for unnecessary regulation. Most importantly, we strongly agree that the Act will enhance animal welfare by allowing more animals to meet criteria for monitoring under the Animal Welfare Act.

As the voice of veterinary medicine in the State of Florida, with a mission to advance the profession, promote animal health and well-being, and protect public health, the FVMA is required to be engaged, and to support measures such as the SAVES Act, which will ultimately positively impact our state's management of programs that protect animals and the economy of Florida.

Sincerely,

PHILIP J. HINKLE,  
*Executive Director.*

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FORT WORTH ZOOLOGICAL ASSOCIATION

July 28, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I am writing to you in support of H.R. 2603, the SAVES Act. The Endangered Species Act (ESA) as it pertains to the breeding of protected species in managed populations creates impediments to conservation and research. By removing protections for species that are not native to the United States, the SAVES Act will

streamline the transfer of specimens between institutions actively working to conserve them.

As you know, the Convention on International Trade in Endangered Species (CITES) imposes strong and effective regulations that serve to protect endangered species. With the support of nearly 200 member countries, CITES provides the international framework to regulate and conserve endangered species. As such, the ESA is duplicative and, oftentimes, counterproductive. In addition to decreasing federal spending and removing redundant regulations, the SAVES Act would augment the conservation of endangered species by removing regulations that hinder participation in global conservation programs.

The Fort Worth Zoo participates in coordinated breeding programs for more than 110 species, many of which are vulnerable, endangered or critically endangered. These programs manage the breeding of certain species in order to maintain healthy and self-sustaining populations that are both genetically diverse and geographically stable. However, to move specimens across borders for recommended genetic breeding often takes 6 months to a year for the U.S. Fish and Wildlife Service to issue permits, while other countries issue permission in weeks. The SAVES Act is critical in managing these populations globally and for some species, like elephants and rhinos, it may be their only hope for survival.

The Fort Worth Zoo supports the SAVES Act, as it will enhance the conservation of non-native species. Thank you for your continued efforts to improve the outdated regulations regarding endangered species.

Sincerely,

MICHAEL FOURAKER,  
*Executive Director.*

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MEDICINE PARK AQUARIUM AND NATIONAL SCIENCES CENTER

July 3, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I write to you today in strong support of H.R. 2603, the SAVES Act. The SAVES Act is the best step towards conservation of endangered species that the U.S. Congress has taken in 40 years. The SAVES Act will not only remove onerous and duplicative government regulation and enhance commerce, it will make conservation great again!

I have spent my entire career working for conservation of endangered species, first as the herpetarium supervisor at the Oklahoma City Zoo, then Curator of the New York aquarium, as founding Director of the Seattle Aquarium, founding Director of the Aquarium at Moody Gardens in Galveston, founding Director of the Oklahoma aquarium, and now as the Executive Director of the Medicine Park Aquarium in Medicine Park, Oklahoma. I have consulted extensively on exhibit design and operations with a number of significant zoological parks including the National Aquarium in Baltimore and Seattle's Museum of Flight and Pacific Science Center.

The duplicative listing of nonnative species on the endangered species act (ESA) has crippled our ability to maintain robust captive populations to serve as a form of insurance against loss of these animals in the wild. The ESA imposed arbitrary geographic boundaries that created genetic islands within the states—in fact, the ESA rendered each state essentially a country for the purposes of interstate movement of endangered species.

It is past time that we admit the ESA is not perfect and appropriately remove all nonnative species from the ESA by passing the SAVES Act. Please do not hesitate to contact me if you have need of further information or have any questions.

Sincerely,

DOUG KEMPER,  
*Executive Director.*

## NATIONAL ANIMAL INTEREST ALLIANCE TRUST

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: H.R. 2603, "Save America's Vulnerable and Endangered Species Act"

Dear Congressman Gohmert:

I am writing to you on behalf of the NAIA Trust, a broad-based animal welfare organization founded in 2001 to provide fact-based answers to complex and controversial issues regarding animals. We are dedicated to securing high standards of animal care and treatment; and to preserving the human-animal bond. Amongst our members across the United States are pet owners, hobby breeders, rescuers and animal professionals, scientists and veterinarians.

I am writing to you today to ask you to support H.R. 2603, "Saving America's Vulnerable and Endangered Species Act" (SAVES). This bill would amend the outdated Endangered Species Act in a simple yet powerful manner: by narrowing the scope to regulate species that are native to the U.S. Nonnative species will be left to regulation under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Much of the ESA restrictions on nonnative species actually serve to HARM current conservation efforts by restricting interstate movement of nonnative species, which creates genetic isolation hindering breeding efforts. With this change, the U.S. Fish and Wildlife Services would then be able to focus all energy and resources to the preservation of native U.S. species. However, it is important to note that this does not impact the regulation of INVASIVE non-native species.

The benefits of this legislation are endless. The government will be saving millions it costs to enforce, not to mention defending and fighting endless lawsuits and petitions from profiteering NGOs preying upon the easy manipulation of ESA. Interstate commerce and economic channels would be opened. H.R. 2603 is legislation that will truly serve to help the conservation of nonnative species through the expansion of captive populations and breeding programs.

Please help to conserve both native and nonnative species with your support of H.R. 2603.

Sincerely,

SARA CHISNELL,  
*Legislative Director.*

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 NATIONAL AQUACULTURE ASSOCIATION

July 7, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: H.R. 2603, Saving America's Endangered Species Act

Dear Congressman Gohmert:

The National Aquaculture Association (NAA) strongly supports passage of H.R. 2603, the Saving America's Endangered Species Act. The listing of nonnative species on the Endangered Species Act (ESA) is not only duplicative, it hampers commerce and oppresses conservation.

The NAA is a non-profit trade association representing U.S. aquaculture that is composed of approximately 5,500 farms with a farm-gate income of \$1.6 billion annually. Our members culture native and nonnative fish, shellfish, reptiles, corals, crustaceans, and aquatic plants for consumption as seafood, use as bait or for stocking for recreational fishing, biological control of nuisance aquatic weeds, and aesthetic enjoyment in garden ponds or aquariums.

Just last week, the National Marine Fisheries Service posted a notice seeking public comment on a proposed listing for nonnative giant clams. Several giant clam species are in the marine aquarium trade and U.S.-owned farms in the Pacific are successfully producing these animals. To be sure, these giant clams are not endangered in captivity and should not be listed! If listed, the farms producing them will

surely decline as interstate movement and commerce will be catastrophically impacted. They may not become priceless, but they are sure to become worthless.

Within the aquaculture community there is significant experience, knowledge, and applied science that has been cultivated over generations and could be leveraged to assist in the recovery of at-risk species. Unfortunately, the history of species listings indicates that there is little flexibility within the Endangered Species Act that would recognize this conservation benefit and allow farms to continue to operate successfully. As a consequence, these invaluable resources are lost.

Quite frankly, the listing of nonnative species on the ESA is not beneficial to conservation, commerce or aquaculture and should be stopped—H.R. 2603 will do this and the NAA strongly supports this bill.

Sincerely,

JIM PARSONS,  
*President.*

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THE PARROT FUND

July 4, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I thank you very much for sponsoring H.R. 2603, “Saving America’s Vulnerable and Endangered Species Act.” I summarize below some reasons why I agree removing non-native species from under the purview of the Endangered Species Act (ESA) is a change whose time has come.

(1) The purpose of the Endangered Species Act (ESA) was and is “to protect and recover imperiled species and the ecosystems upon which they depend.” How it has been implemented within the United States certainly is open to discussion and disagreement, yet within our country it has helped a large number of native species. The same cannot be said for non-native species living in foreign nations over which the U.S. has no jurisdiction, cannot make safe harbor agreements, or make any of the other national-local agreements that promote species conservation while reducing the negative impacts of the ESA on personal freedoms and private property rights. It is superfluous regulation with no purpose or beneficial effect.

(2) The present implementation of the ESA makes it nearly impossible to maintain viable populations of non-native species in captivity because of the time consuming, complex, costly and often conflicting regulations that owners must contend with. Yet there is no concomitant benefit to those species in their native countries. Interstate exchanges of individuals for breeding purposes are hindered by the permitting requirements and expenses, and surplus animals (and presumably plants) cannot be sold but must be maintained by the breeder, given away, or destroyed. I personally am trying to breed several endangered parrot species. I know of out-of-state people who would sell me important genetic representatives to add to my breeding programs, but the present version of the ESA requires both of us to have captive breeding permits that are difficult, expensive and time consuming to try to obtain. I also have people who are interested in buying any surplus birds I may have, but I must tell them I cannot sell any to them because of the ESA regulations. I am thus a very small and simple example of how the present version of the ESA hinders the development of small businesses that might wish to do transactions across state lines.

(3) Millions of dollars are wasted by the huge bureaucracies needed in the Fish and Wildlife Service and National Oceanic and Atmospheric Administration in responding to listing petitions, litigation, managing the permitting processes, and performing the required periodic 5-year reviews. Time that could be focused on native species and their recovery is wasted on regulating U.S. ownership of non-native species with only negative effects on the conservation of these species.

(4) H.R. 2603 cleans up duplicate regulations: CITES, a major international conservation treaty with 183 parties, will continue to regulate international movement and protection of endangered species. There is no need for another U.S. law to regulate species not native to the U.S. While the CITES treaty certainly could be improved to be more effective and less political, the U.S. Endangered Species Act in no way addresses CITES problems. And the Wild Bird Conservation Act is more than adequate to regulate ownership of non-native birds in the United States.

(5) Regulations should not impede personal freedom, economic opportunity, and interstate commerce without benefits that markedly exceed the damages caused. Applying the ESA to non-native species with a broad brush does not deliver such benefits.

(6) Finally, I have had to point out to some people who initially objected to H.R. 2603 because of the problem of dangerous and invasive species, that H.R. 2603 does not impact the Government's ability to regulate non-native invasive species under the Federal Injurious Wildlife Law (Lacey Act 18 U.S.C. Sec. 42).

In closing, thank you for submitting this amendment to the House Committee on Natural Resources. I have asked my Congressman Bill Flores to support this much needed modernization of the Endangered Species Act. I hope your efforts come to fruition.

Regards,

JANICE D. BOYD,  
*President.*

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PET INDUSTRY JOINT ADVISORY COUNCIL

July 11, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

On behalf of the Pet Industry Joint Advisory Council (PIJAC), I write today in support of the Saving America's Endangered Species (SAVES) Act, H.R. 2603. As the country's largest pet trade association, representing the interests of all segments of the pet industry throughout the United States, PIJAC counts among its members national associations, organizations, corporations and individuals involved in the commercial pet trade. More specifically, PIJAC represents the interests of pet stores, distributors, pet supply manufacturers, breeders, retailers and pet owners throughout the United States.

The SAVES Act addresses a very real defect in the way the Endangered Species Act (ESA) is currently administered. By removing non-native species from the auspices of the ESA, this Act would restore uniform national oversight to the interstate transfer of non-native species. It would permit the individuals and organizations across the country who are committed to breeding for preservation and responsible enjoyment to more readily interact with one another, thereby improving the genetic diversity of breeding groups and removing restrictions that currently result in surplus animals being held or even destroyed.

We at PIJAC are proud to work with the federal government and international non-governmental organizations on a wide range of conservation and protection efforts. We have a memorandum of understanding with the U.S. Fish and Wildlife Service regarding the public-private partnership known as Habitattitude, which educates the public on proper disposal of non-native and potentially invasive species. We regularly engage with the government on issues stemming from the Lacey Act's oversight of invasive species. And we are active participants in discussions surrounding international trade in exotic species through CITES.

It is with this experience and perspective that we are able to say that the SAVES Act is a welcome attempt to remove a duplicative and costly element of the ESA by clarifying that non-native species here in the United States are not to be treated as endangered or threatened. This change will not jeopardize existing protections, but it will certainly improve efforts to preserve species that may be endangered or threatened in their native habitats.

Respectfully,

MIKE BOBER,  
*President & CEO.*

## RAINFOREST CLINIC FOR BIRDS &amp; EXOTICS

July 14, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: PLEASE SUPPORT H.R. 2603

Dear Congressman Gohmert:

I am an avian veterinarian and also an aviculturist (parrot breeder). I work with many species of exotic (Non-native) birds which are listed as Endangered or Threatened under the Endangered Species Act.

I support H.R. 2603 because listing of non-native species under the ESA does not provide tangible benefits to the conservation of those species and in fact it limits exchange of specimens between states, thereby restricting genetic diversity in captive populations.

ESA listing of non-native species is un-necessary because they receive adequate protection for the effects of trade by the CITES treaty and more recently the Wild Bird Conservation Act. As part of a working group associated with the American Federation of Aviculture, we found no evidence that the U.S. Fish and Wildlife Service has provided any support to enhance the conservation of listed psittacines (parrot) species in the wild.

This amendment will eliminate the need for the Captive Bred Wildlife Program which requires costly and onerous permitting and restrictions of birds and animals moving around the U.S., as well as constant monitoring of the species status in the wild. The U.S. has no jurisdiction in those species native countries.

Passage of H.R. 2603 will free up resources so that the U.S. Fish and Wildlife Service can concentrate on our native species.

H.R. 2603 will enhance the ability of U.S. Citizens to work with and conserve U.S. captive populations of non-native species.

Respectfully submitted,

SUSAN CLUBB, DVM

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THE SNAKE KEEPER

July 13, 2017

Hon. ROB BISHOP, *Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Bishop:

I am writing to you in regarding H.R. 2603, the SAVES Act. I have previously contacted your office as well as the offices of our other congressional leaders here in the state of Utah regarding this bill.

My husband and I have been breeding and caring for various species of reptiles and amphibians for the past 30 years. Through these years there has been tremendous progress made in the captive husbandry and propagation of numerous species of terrestrial animals, aquatic life and plants. However, many of our laws regarding wildlife have not kept up with the advances in wildlife husbandry.

We enthusiastically support H.R. 2603 as it will remove non-natives from the ESA listing. This will allow individuals and institutions working with endangered non-native species to establish stronger breeding programs by allowing for greater genetic diversity of those programs. The offspring from such programs will be far more robust and they will become an invaluable asset for building the foundations of future breeding programs.

There is a finite amount of resources available to implement programs. It is impossible for the U.S. to control what happens in other countries where ESA species reside. Removal of the non-native ESA species will allow for greater resources to be used for our own ESA species here in the U.S. Federal spending on non-native ESA species would be decreased. U.S. Fish and Wildlife would be able to discontinue the Captive Bred Wildlife permit system and associated reviews. This would allow for more of their limited resources to be used for our own native ESA species.

Thank you for your time. We urge you to strongly support H.R. 2603 as an effective way to strength conservation efforts of non-native ESA species here in the U.S.  
Sincerely,

COLETTE SUTHERLAND,  
*Owner TSK Inc.*

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SOUTHWICK WILD ANIMAL FARM, INC.,  
dba SOUTHWICK'S ZOO

July 17, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

Today I write to express my full support of H.R. 2603—the SAVES Act. For more than 4 decades the Endangered Species Act (ESA) has hampered conservation through redundant and unnecessary regulation of nonnative species.

Southwick's Zoo was opened in 1963 by my grandfather. Over the years, the zoo has grown to 300 naturalistic acres and more than 850 animals. We welcome 450,000 visitors each year and offer them opportunities to get close to and learn about some of the most endangered species in the world.

Being located in Massachusetts, the oppressive nature of the ESA regulation of nonnative species is particularly problematic. Given that the states in the New England area are small, it is quite likely that we are unable to engage with collections just a few miles away. Certainly, if one is interested in conservation of endangered species, one can clearly and readily understand that these draconian regulations are not in the interest of conservation of endangered species. Maintaining genetic diversity within the captive population is one of the most valuable contributions available for ex-situ conservation—listing nonnative species under the ESA fails to recognize this 21st century approach to conservation.

As a veterinarian, I understand the complicated nature of ESA-related issues including animal welfare and disease concerns. H.R. 2603 doesn't impact current disease regulations and may serve to enhance animal welfare. Let's welcome the American conservation into the 21st century and modernize the ESA by removing its oppressive listing of nonnative species. Pass H.R. 2603!

Sincerely,

PETER J. BREWER, DVM

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TURTLE AND TORTOISE PRESERVATION GROUP

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: Support for H.R. 2603, "Saving America's Vulnerable and Endangered Species" Act

Dear Congressman Gohmert:

On behalf of the Turtle and Tortoise Preservation Group (TTPG), this letter is submitted in support of H.R. 2603, known as the "SAVES" Act. TTPG is an educational 501(c)(3) non-profit association. The mission of the TTPG is to ensure survival of the world's turtle and tortoises through captive breeding. The TTPG supports the private ownership of chelonians and recognizes the substantial role that the private sector has played in the captive breeding and conservation of turtles and tortoises. TTPG members have specialized knowledge and expertise on the captive care and breeding of chelonians obtained through education, research, and practical knowledge gained from years of experience in maintaining and breeding chelonians. The TTPG shares knowledge and educate individuals and organizations regarding captive care, husbandry, health, breeding, and conservation of chelonians. Members pursue and encourage legal, ethical, and moral efforts to prevent extinction of turtle and tortoise species. The TTPG recognizes that captive breeding reduces the pres-

sure on wild populations and provides assurance colonies for species threatened in the wild due to habitat loss, disease, or natural disasters.

One portion of the ESA that would be eliminated by H.R. 2603, and directly impacts private breeding efforts, is the Captive Bred Wildlife (CBW) permit system. This permitting system is redundant to the Convention on International Trade in Endangered Species (CITES) global administration in international trade and movement of endangered and threatened species. CITES is a robust worldwide society with nearly 200 member countries. The strength and effectiveness of CITES makes the use of the ESA, through the CBW permit system to protect non-native, captive bred species held within the U.S. redundant.

In addition, the CBW permitting system is costly, labor intensive for the U.S. breeders working with non-native endangered species and the permit provides absolutely no benefit to the conservation of these species. The regulatory body that oversees the permitting system, the U.S. Fish and Wildlife Service (USFWS), has also openly said they do not believe in ex-situ breeding populations. What we have seen the permit system actually do is discourage breeders in the U.S. from working with any non-native endangered species that may actually benefit the captive breeding the most. It will cost the breeder money in permit fees every five years, time, and tremendous effort in filing for permits that are administered by an office that discourages private breeding of endangered species. The time for a response from USFWS to your application routinely takes more than a year now. There is additional time spent by the breeders to prepare the required annual reports to USFWS. Those who do have the permit can still only sell to others with the permit that have those species listed. Such hesitations and restrictions inadvertently create genetic bottlenecks within the existing captive breeding populations. This is not only detrimental to the captive population, but only reduces the long-term vitality of captive breeding populations that are no longer being removed from the wild and imported into the U.S.

It is time to update the Endangered Species Act and remove this redundant, costly, time wasting listing of nonnative endangered species. This will allow USFWS to focus their resources on imperiled native wildlife.

Respectfully submitted,

PAUL VANDER SCHOUW,  
*Director of Operations.*

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WILDLIFE WORLD ZOO, AQUARIUM & SAFARI PARK

July 5, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

The SAVES Act, H.R. 2603, is a bill that is way overdue. Since 1973 when non-native species were listed on the Endangered Species Act (ESA), they should have been removed. Listing nonnative species in the ESA is not only a duplicative, onerous regulation, but is counter-productive to conservation and significantly impedes commerce by prohibiting interstate movement of these animals.

For the past 33 years I have owned and operated Wildlife World Zoo, Aquarium & Safari Park in Litchfield Park, Arizona. We are not only an accredited zoo, but the largest in Arizona and the first aquarium in Arizona. 400,000 people come to our park annually to experience rare animals and learn about the value of animals and their care while enjoying a family outing. Over 80,000 of these visitors are school children on field trips who enjoy several educational presentations each day featuring various animals. Since our opening in 1984, Wildlife World has been dedicated to providing hands-on and up-close experiences with some of the rarest species in the world in order to spark an interest in conservation, in even the most cynical of our visitors!

Wildlife World not only exhibits endangered species, but we successfully reproduce these animals as part of organized, cooperative breeding programs for conservation. Our access to genetic diversity among ESA-listed nonnative species is severely hampered by their listing on the ESA. In fact, captive breeding programs are stifled by ESA listings as interstate movement is largely prohibited and CBW permits are becoming difficult to renew.

One of the reasons that our guests return to Wildlife World is not only the connections they make with our animals, but to see the rarest and most endangered species. If we are unable to maintain and continue to successfully reproduce these species, our annual admissions will certainly be negatively impacted. Wildlife World employs over 100 people full time and has significant community engagement. We owe this not only to our great staff, but to the rare and endangered species with whom our visitors can enjoy viewing and learning about.

Nonnative species should not be listed on the ESA. I strongly support H.R. 2603 to remove this duplicative and onerous regulation and to enhance conservation efforts in captive populations.

Please do not hesitate to contact me if you need any further information or have any questions.

Sincerely,

MICKEY OLLSON,  
*Director/Owner.*

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WILDWOOD AVIARIES

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I am writing in support of H.R. 2603, the SAVES Act. This positive bill does the following:

- Removes duplicative regulations.
- Increases commerce and economic opportunity through deregulation of interstate movement of non-native species. (See details below.)
- Decreases spending of millions of tax dollars to respond to lawsuits related to listing of non-native species.
- Allows USFWS to focus on monitoring and protection of native endangered species.

The keeping and breeding of many different non-native species is a widespread activity in the United States, with an accompanying strong and vibrant positive impact on the U.S. economy. There are many segments of the manufacturing and business sectors involved in the production of goods and services related specifically to non-native species kept and bred in the USA. Some examples follow:

- buildings/barns, outdoor pens, ponds
- variety of types of wire, plastics, containers, and equipment
- tremendous variety of food types, from grains, seeds, nuts to meat and vegetable products
- stores and shops which sell equipment related to the care and keeping of non-native species
- individuals keep/breed non-native species as a full time or part time income-producing occupation
- non-native species organizations produce annual or monthly shows, exhibits, fairs in various parts of the United States, bringing in visitors and income to local communities.
- ownership of non-native species has resulted in the development of professions related to the care and keeping of these species, such as non-native animal veterinarians who treat everything from parrots to emus or from reptiles to primates.

Speaking as a person who owns non-native endangered parrots, over the past two years I have spent more than \$250,000 in construction in order to house these birds properly. Routine monthly expenditures include the provision of food items, the use of avian veterinarians, the purchase of transport containers, air cargo shipments, and expenditure for workers hired to assist with daily routines. I am simply one person among many thousands who work with non-native species: birds, mammals, reptiles, etc. All of these individuals across the U.S. are involved in the creation of jobs, demand for the manufacture and sale of a wide variety of equipment and prod-

ucts, demand for a wide variety of types of foods, etc., all of which results in a huge economic boost for communities, and for the production of tax dollars for the USA.

It makes sense to pass a law like H.R. 2603 which promotes economic success while also making it much easier for the USFWS to do its work to monitor and save native species. The ESA regulation of non-native species does nothing to protect these species and they should be removed from the ESA.

Sincerely,

LAURELLA DESBOROUGH,  
*Claremore, Oklahoma.*

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WILDWOOD WILDLIFE PARK

July 13, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

I am writing today to express Wildwood Wildlife Park's full support for H.R. 2603—the SAVES Act. This common sense legislation will relieve the oppressive regulation of the Endangered Species Act (ESA) from nonnative species and enhance conservation, increase commerce, and remove duplicative regulation.

Wildwood Wildlife Park is home to more than 1,000 animals including many endangered species. My family purchased the zoo in 1997. We had previously owned and operated a private game farm. Our park is truly a family affair with our sons playing an integral part of operations. Indeed, we think of our guests as extended family and work to provide them with unique opportunities to learn about endangered species and through greater understanding, learn to love and conserve these precious resources. Children in particular that visit the zoo must be brought into contact with nature because they are the future caretakers of this planet. In the zoo children develop a large sense of respect and understanding towards the living world.

Our collection depends on sophisticated breeding management to maintain a robust and healthy population. The redundant listing of nonnative species on the ESA nearly prohibits interstate movement of these species and significantly impacts genetic diversity within all captive populations. Modern conservation science recognizes the importance of not only genetic diversity but the true value of captive populations. Robust captive populations serve as a type of insurance against declining wild populations. If some natural disaster or disease outbreak should wipe out an existing wild population, the habitat could be restored and then restocked using animals from a healthy captive population. Current listing of nonnative species on the ESA does not contribute to the modern model for holistic conservation of endangered species.

It is because of our love of endangered species and work in conservation that we fully support H.R. 2603's efforts to remove duplicate regulation, enhance commerce and animal welfare, and bring conservation into the 21st century.

Sincerely,

JUDY AND DUANE DOMASZEK,  
*Wildwood Wildlife Park Directors.*

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ZOOSIANA—ZOO OF ACADIANA

July 7, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Re: Strong Support for H.R. 2603: The SAVES Act

Dear Congressman Gohmert:

My name is Matt Oldenburg and my family has owned and operated the Zoo of Acadiana (dba Zoosiana) in Broussard, Louisiana for the past 15 years. We strongly support H.R. 2603, known as the SAVES Act. This bill is long overdue and it will eliminate duplicative, onerous regulation by removing nonnative species from the

Endangered Species Act (ESA). Keeping nonnative species in the ESA is counter-productive to conservation and significantly impedes commerce by prohibiting interstate movement of these animals.

Zoosiana is an accredited zoological park and is the only one privately owned and managed in Louisiana. We receive no taxpayer funding—at neither the local, state, nor federal levels. We host 150,000 guests annually who come to our park to learn about and appreciate the many animals living here. 30,000 of these guests attend through school field trips!

Our zoo provides daily care and maintenance for more than 1,000 animals, representing 125+ species, many of which are endangered. We are fortunate to take this a step further and have a long history of successfully reproducing many of these endangered species. However, our access to genetic diversity for these animals is severely hampered by their listing in the ESA. Managed breeding programs are truly stifled by ESA listings as interstate movement is largely prohibited and the licenses to allow this, called CBW permits, are becoming difficult to renew.

One of the reasons our guests continue to visit Zoosiana is to see rare and endangered animals. If we are unable to maintain and continue to successfully reproduce these species, our annual admissions will certainly be negatively impacted. Zoosiana employs a staff of 35 people and is heavily invested in the local communities. Our guests enjoy viewing and learning about our rare and endangered animals and we owe this to the first class animal care provided by our staff.

Nonnative species should not be listed on the ESA. We strongly support H.R. 2603 to remove this duplicative and onerous regulation and to enhance conservation efforts in managed populations.

Please do not hesitate to contact me if you need any further information or have any questions.

Sincerely,

MATT OLDENBURG

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ZOOLOGICAL ASSOCIATION OF AMERICA

July 6, 2017

Hon. LOUIE GOHMERT, *Vice Chairman,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

Dear Congressman Gohmert:

The Zoological Association of America (ZAA) strongly supports passage of H.R. 2603—the SAVES Act. The listing of nonnative species under the Endangered Species Act (ESA) is redundant and counter-productive to conservation efforts for endangered species.

ZAA is the one of the largest trade association in the zoological sector; counting among its members some of the finest facilities in United States. ZAA promotes responsible ownership, management, conservation, and propagation of animals through professional standards in husbandry, animal care, safety and ethics.

Conservation, education and research are major pillars of our work at ZAA. Our members are involved in conservation work including reintroduction programs, rescue and rehabilitation, community outreach and education programs, and a series of predator/prey conflict avoidance programs and studies. Additionally, through maintenance of robust captive populations of endangered species, ZAA institutions create a conservation safety net for wild populations. These species management programs are coordinated across our membership to ensure the greatest genetic diversity and overall herd health for these species.

ZAA's commitment to the fields of research and education takes us beyond animal ambassador programs and classroom education to more comprehensive work with wildlife management professionals around the globe. This work includes conducting and supporting research in behavioral sciences and genetics and exchanging information and training on husbandry, nutrition, best management practices, and veterinary care.

Our members rely on the ability to move individual animals among collections to best maintain a robust captive population and to provide the best opportunities for successful breeding of endangered species. The onerous and prohibitive regulation of captive bred, non-native species under the ESA is counter-productive to conservation efforts. If our members cannot successfully maintain a healthy captive population of some of our most endangered species, we will lose that important genetic safety net. In addition, the general public will lose the opportunity to learn about

these unique creatures while developing stewardship and compassion for the conservation of endangered and threatened species

ZAA members contribute to and support in situ conservation worldwide, both independently and through the Hall Family ZAA Conservation Fund with a direct correlation between the guests, our member institutions, and supporting animals in the wild. We need to assure our members and the public that conservation of endangered species is a priority, and we can do that by lifting the redundant and unnecessary regulation of nonnative species under the ESA.

H.R. 2603 is the best conservation policy in many years and ZAA strongly supports its passage. Please do not hesitate to contact me if you have any questions.

Sincerely,

JOHN SEYJAGAT,  
*Executive Director.*

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Mr. GOHMERT. Thank you. I was touched by Mr. Corwin's testimony about being able to introduce ferrets with his daughter into an area where they were no longer. And that has happened around the world, and thank God that it has. But it normally happens, as I have been talking about, by groups that have, in captivity, endangered species in another country that are not at all endangered in the United States.

African scimitar, horned oryx, is one of those. African Barbary sheep and Indian blackbuck antelope. India and Pakistan had to come to Texas to get these that were extinct in their country from people who were conserving them. But when the Federal Government comes in and says, "Hey, these are endangered species," and they say, "No, we have thousands in the United States among our breeders," they say, "Well, we don't care. They're extinct overseas, we are going to list them as endangered, and we are going to have to permit everything you do on your land," they get rid of them and we lose those species.

Only someone who thinks that whatever the question is the answer is "government" would think that the SAVES Act is a bad idea. Illegal wildlife trafficking will not be affected by this, because if it is illegal to transport any species, then it is still illegal after this bill passes. I yield back.

The CHAIRMAN. Thank you.

Mr. Huffman, you are recognized.

Mr. HUFFMAN. Thank you, Mr. Chairman. I think we have some very selective reliance on the position of our governors in this case. I have heard this recurring theme, that the Western Governors Association made a bunch of recommendations on the Endangered Species Act.

Well, the Western Governors and governors all over this country have not exactly been bullish on the Trump-care legislation, and yet they were summarily ignored in this House. But if they come along with recommendations that may be read or construed to help weaken the Endangered Species Act, suddenly they are very persuasive authorities in this hearing.

It is a good analogy that the Ranking Member made between the Endangered Species Act and health care, because I keep hearing again and again from my colleagues across the aisle, "We don't want to see species go extinct, but," and then begins the reasons why we have to do things to weaken the Endangered Species Act.

There is really no conversation that I have had in this Committee in my 5 years here about anything that would actually strengthen the endangered species, anything that would actually give some policy meaning to this stated support for wildlife and species. All we ever talk about are pulling threads out of the Endangered Species Act to make it weaker and weaker.

So, along come the Western Governors. In several of the witnesses' testimonies, we have heard about their specific recommendations because some of those recommendations are consistent with the long-standing agenda of this Committee: to weaken citizen enforcement, to make it harder to do listing, to make it easier to do de-listing, to weaken independent science, all the threads that the Committee keeps wanting to pull out of the Endangered Species Act, which many of us believe would cause it to unravel.

So, a couple things about that. First of all, there are some of those recommendations from the Western Governors that are being ignored, like the increased funding for implementing the ESA. We don't talk about that. It certainly appears nowhere in the Administration's budget. We just had the Secretary of the Interior to testify about what a balanced budget looks like. In his view, the way you balance the budget is you slash the heck out of ESA implementation, so we have a disconnect there.

The other disconnect is the implication that these recommendations were done by consensus among the Western Governors, because they were not. In fact, the largest of the Western Governors, Gov. Jerry Brown in California, correctly anticipated how this report would be misused by this Committee and this Congress, and he went on record on June 23 with a letter stating that, "the current climate in Congress is marked by chaos and partisanship. This climate will not result in good conservation policy."

And that is why he specifically said in his letter, "California does not support congressional action on the Endangered Species Act and will not be supporting the [WGA] resolution." He was joined by Washington Governor Inslee, as well.

So, I think it is important to note that this was not a consensus among the Western Governors. Some of them correctly foresaw the way politics would play out in this Committee and in this Congress. And without objection, Mr. Chairman, I would like to enter Governor Brown's letter of June 23 into the record.

The CHAIRMAN. Without objection.

[The information follows:]

### **Rep. Huffman Submission**

GOVERNOR EDMUND G. BROWN, JR.,  
OFFICE OF THE GOVERNOR,  
SACRAMENTO, CALIFORNIA

June 23, 2017

The Honorable Governor Matt Mead  
Idelman Mansion  
2323 Carey Ave.  
Cheyenne, WY 82002-0010

Dear Governor Mead:

I am responding to your letter urging my support in adopting the amendment of the Western Governors' Association Policy Resolution 2016-08. Unfortunately,

California does not support Congressional action on the Endangered Species Act and will not be supporting the resolution.

You spearheaded an inclusive thoughtful process. In contrast, the current climate in Congress is marked by chaos and partisanship. This climate will not result in good conservation policy.

Thank you again for your leadership on this issue.

Sincerely,

EDMUND G. BROWN JR.

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Mr. HUFFMAN. All right. With that, I yield back.

The CHAIRMAN. When you called him the largest governor, are you saying that Governor Brown is fat?

[Laughter.]

The CHAIRMAN. Maybe. All right. Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman, and thank you for having this important hearing today.

Mr. Hegar, I have a question for you. In your written testimony, you state that, "Currently, decisions on species must be made on the best scientific and commercial data available. But often, relatively little is known about the population, range, habitat, and needs of these species, providing a poor basis for decisions that can have major economic consequences."

Can you address whether the legislation before us today will help improve scientific cooperation and transparency?

Mr. HEGAR. Yes, thank you for the question. Absolutely. In part, because of the three principles that I laid out—one, having a meaningful role for state involvement.

And say, for example, not only looking at Texas Parks and Wildlife, which does a lot of work, and we work together significantly on issues because we overlap, but you have many other state agencies that have knowledge and information—whether it is the Comptroller's Office, we are looking at economic impact; the General Land Office, which has all the lands out in west Texas, that oversees those and also our beaches; or whether it is Texas Department of Transportation, Soil and Water Conservation Board, Texas Commission on Environmental Quality.

My point being, there are multiple state agencies, and all of these agencies have information, plus the states have connections with the universities that are doing research, the stakeholders that are involved, whether it is landowners or various industry groups. So, therefore, allowing us to provide that information makes better-informed decisions.

And say, for example, a lot of times the information is decades old. So, the best-available data is something that is 20 years ago, and I don't think we want to use decade-old information to make a listing decision, when the states have research—say, for example, in Texas—and a lot of data that we can provide. I think it is important that the Services take and utilize that information to make better-informed decisions.

Mr. LAMBORN. All right, thank you.

Mr. Holsinger, I am glad you are here today. I want to ask you about the Preble's meadow jumping mouse. And, Mr. Sheehan, I hope you are listening.

Was the listing of the Preble's meadow jumping mouse for Colorado, but expressly not for Wyoming—I guess at the border between the two states, something happens—was that based on sound science?

Mr. HOLSINGER. Thank you, Congressman. It is nice to see you. That is a terrific example of the Endangered Species Act gone astray.

The Preble's mouse was listed in 1998 as a sub-species of the meadow-jumping mouse. And it turns out that this meadow-jumping mouse ranges across the greater part of North America, the greater part of the continent, all the way up to southeast Alaska, so the listing, I think, was very questionable.

And I also think it is virtually criminal that the Federal Government is spending more money on the Preble's mouse than on the blue whale. That is something we looked at closely some years ago, and it is a wonderful example of how upside-down our priorities have become.

Mr. LAMBORN. Thank you.

Mr. Hegar, back to you again. Do you believe that the ESA process should take into account the economic impacts of critical habitat designations when they are doing their listing decisions?

Mr. HEGAR. Yes, I think all economic data and information should be taken into account, because I believe that we can better manage the resources and the species. And that is why, as one example that I laid out over and over in my written testimony, as well as the oral, was having all the stakeholders involved.

You can gather all the information that you need, taking in what is needed for the species, where are they located, what is the habitat, and also taking in the economic considerations, because the two are critically linked. And often, the resources that we, as individuals, are utilizing are the same resources that the species utilize. And making sure that those resources are better for everyone is critically important.

Mr. LAMBORN. Mr. Willms, what happens to state budgets when an excessive, in my opinion, an excessive amount of money is spent on listings, or mitigating listings, based on a possible abuse, when that money could have been used for other things that the state has to pay for?

Mr. WILLMS. Certainly. Well, we end up spending a lot of money on species that have been recovered for a long period of time, and that is money that we could be spending in other places, like on our wildlife action plan, to work on non-game species, on species of concern for the state of Wyoming that we want to prevent the need to see listings of in the future.

It hamstring resources in a certain area where it might not be necessary.

Mr. LAMBORN. OK. Thank you. Because my time is running out, I am not going to ask my eight-part question. I yield back.

[Laughter.]

The CHAIRMAN. Thank you.

Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chairman, and thank our witnesses for being here today.

First, I would like to take a moment to mention an endangered species success in my congressional district. Given the urban nature of the California 47th Congressional District, you might not think that we have any wildlife to worry about, but we do. We have the island fox on Catalina Island.

When the Center for Biological Diversity and the Institute for Wildlife Studies petitioned the Fish and Wildlife Service in June of 2000 to list the species, there were only 103 of these individuals left on the island. After a listing in 2001, and a lot of hard work by the Fish and Wildlife Service, the Catalina Island Conservancy, and other local partners, the population of the Catalina Island fox has rebounded to a sustainable population of about 1,700. So, we have gone from 103 to 1,700.

The Fish and Wildlife Service recently down-listed the Catalina Island fox from endangered to threatened because the species has recovered biologically, but there still remains threats of disease. Without the Endangered Species Act, I believe our Catalina Island fox would most likely be extinct.

So, for me, the Endangered Species Act is working, despite many attempts—and it has been systematic—to undermine it at every turn by attempting to exempt development projects from meeting Endangered Species Act consultations, from altering access to the judicial process, from blocking funding for specific recovery projects, and by squeezing both Fish and Wildlife and NOAA's budget, in general.

In spite of all this, I would like to say that 99 percent of listed species have not gone extinct. That is an amazing record.

Mr. Corwin, I have a question. One of the bills that we are discussing today, H.R. 2603, is opposed by the conservation community, as well as the Association of Zoos and Aquariums. This is the prestigious organization now led by former Fish and Wildlife Service Director Dan Ashe, that sets the gold standard for zoos.

H.R. 2603 is endorsed by the Canned Hunting Operators, which is the trophy hunters in which the animal is kept in a confined area, the exotic pet industry, and it is also endorsed by what I would call a questionable zoo accreditation group called the Zoological Association of America. The bill eliminates permitting requirements for foreign species which are located within the United States.

Can you explain to me why this bill would exacerbate the loss of wild populations of certain imperiled foreign species?

Mr. CORWIN. Well, it is very important to note that, through the AZA, which is one of the most important, robust organizations for zoos and aquariums—it is sort of the ivy league organization that these groups belong to—they have many, many partners, including Federal partners.

When an endangered species is recovered, it is not done alone on an island, it is with both private, state, and Federal partners.

As for keeping species that are internationally recognized as endangered, that has to remain constant. And we know, for example, just recently in France, in a zoo, a rhino, one of the most critically endangered species on the planet, a white rhino, was actually poached in a zoo.

This gathered a tremendous amount of world attention because it is critically endangered, and it is internationally recognized and protected under CITES. So, we need to apply that with wildlife that is in the United States, as well. Endangered species from other countries still should be afforded the protection here in the United States.

Dr. LOWENTHAL. Thank you. And, Mr. Chair, I still have 49 seconds, and I yield back.

The CHAIRMAN. Thank you. I thought the endangered species in your district was going to be you, but—

[Laughter.]

Dr. LOWENTHAL. That is true. We have two endangered species, if we listen to the Chair.

The CHAIRMAN. Mr. Wittman.

Mr. WITTMAN. Thank you, Mr. Chairman. I would like to thank our panelists for joining us today. And I want to begin by saying that certainly the Endangered Species Act is a very important law. It has done a tremendous amount to both recover and protect species. No debate about that.

I think, though, today is about where is the balance in this Act? Where are the things that we see happening before us, and how can we make sure we better create that balance?

Mr. HEGAR, I want to go to you. You had spoken earlier about needing to consider the economic impact of designating critical habitat. And we see some of that happening in Virginia and along the East Coast, with the listing of the Atlantic sturgeon. In the listing of the Atlantic sturgeon now, NOAA is looking at designating certain areas as critical habitats. Those areas include New York Bight, the Chesapeake Bay, the Carolinas, the South Atlantic, including major shipping lanes and shipping channels.

And we all know that, through time, Mother Nature has a tendency to fill those channels in. In order to make sure commerce can continue in those areas, there is the need to be able to dredge. If they are designated as critical habitat, that has a significant impact to the economies of states up and down this coast, on the Atlantic Coast, as well as the Nation's economy, with the ability to move commerce over the waterways, which I argue is a more environmentally friendly way to do that, rather than thousands of trucks on the road. Yet, we see this potential conflict there.

Could you give me, from your experience, an example of why consideration of economic impacts is critical in looking at these critical habitat decisions?

And can you give me an example about how you see stakeholders working together to make sure we find reasonable places to be on policy, and how we designate that habitat, making sure there is a balance in that decision making?

Mr. HEGAR. Yes. First, I will key off on the stakeholder process, and in my written and oral testimony I mentioned that when I was a State Senator, I had implemented a process by which trying to resolve a 50-year ongoing struggle among all the various stakeholders in the Edwards Aquifer with various species.

So, by not only passing legislation, but being very actively engaged and help stewarding that process along, where everybody was at the table, it was key that everyone was there. And we ulti-

mately got to a successful HCP. And now, in this job, I have made sure that we keep that open, transparent, and everyone is involved.

And my point is, coming back to your previous question, when you mentioned about economic conditions, and you, yourself, mentioned one prime example. If you look at things in a vacuum, and not the larger scale sometimes, which is the economic circumstances, then you are talking about dredging in a ship channel, where by now everything has to be by trucks and traffic and congestion, you can cause significant other environmental issues that can harm many other species when we are looking narrowly at one and trying to preserve that one, but we are not looking at the bigger picture at times.

And I use that example when we are talking about the research that we are doing, and the significant amount of money that the state is putting into studying the 12 mussels in the four river basins that my office has authorized over \$3 million in research by working in all the different basins, and also working with Fish and Wildlife, and using, actually, processes whereby we are trying to make sure that we can reimplement and put back species in areas, to make sure the species is safe, but also balancing that economic need of the greater area there in Texas, where there is a win-win. And I think those win-wins can exist, but we have to look at them in conjunction.

Mr. WITTMAN. Give me your perspective, then, on what you think we could do to the current ESA to improve it to better include consideration of economic impacts, to make sure decisions that are made are made with the full scope of considerations, and make sure that, in the long term, we are doing the right thing.

Mr. HEGAR. I think to get to the economic considerations, it is absolutely critical. Two of the first things that I mentioned in making sure that we have a better process—(1) state involvement, because we have a closer connection there to the local communities and local areas. Even though Texas is a \$1.7 trillion economy and the 10th largest in the world, we are engaged in all of those areas, me and my sister agencies, to make sure that we are working with all the stakeholders.

And (2), which I think is more critical than anything else, is it is data-driven. You have the facts, the data, and the information. Say, for example, with the dunes sagebrush lizard out in the Permian Basin, the lizard is not in the entire Permian Basin. It is in certain areas. Being able to identify exactly where is critical one, two, and three habitat, so we can protect the lizard, but also enable that economic activity that is booming out on the Permian Basin, and which is driving not only Texas economy, but a lot of our national economy. The two can go in conjunction, and it is very critical that you have that data to make the right decisions.

Mr. WITTMAN. Thank you, Mr. Chairman. I yield back.

Mr. TIPTON [presiding]. The gentleman's time has expired. Mr. Clay, you are recognized for your 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman, and I thank the witnesses for being here today.

Mr. Holsinger, in your testimony, you criticize conservation groups for doing the same thing your industry clients do all the time: suing the government to represent their interests.

In the case of the conservation groups, however, those interests represent millions of Americans, not just a few people.

In February 2017, a GAO report examined an ESA deadline suit filed against the Fish and Wildlife Service and the National Marine Fisheries Service between 2005 and 2015. It found that, aside from helping the Services set schedules for completing overdue evaluations, the suits and subsequent settlement agreements and court orders did not affect the substantive basis of procedural rule-making requirements the Services were to follow, or the substance of any rulemaking action to be completed.

Do you disagree with the findings of this thorough and non-partisan GAO review?

Mr. HOLSINGER. Thank you, Congressman. I think it is important to look not just at the conclusions from the report, but at the data from the report. And the data is real clear that environmental groups are responsible for 90 percent of all the litigation over ESA issues.

As to how much benefit these thousands of lawsuits have been to the agency, I would be happy to defer to Mr. Sheehan. But I strongly suspect that this has done nothing but tie our agency in knots, and keep them from doing their jobs.

Mr. CLAY. And I would think it would depend on what the overall outcomes of the suits are, too.

The report also found that across the deadline suits filed between 2005 and 2015, 44 different lead plaintiffs representing a variety of interests filed suits against the Services. These plaintiffs included environmental groups, trade associations, local citizen groups, local governments, and recreational groups.

So, while the groups you mentioned in your testimony have filed lawsuits, it is important to note they are not the only ones. Citizen petitions and suits are critically important to wildlife conservation, as they present new science and force the Services to take a hard look at species that the public feels may need, or may no longer need, ESA protection. So, I just make that point.

Let me go to Mr. Hegar. I find it odd that your agency is in charge of state endangered species conservation when your website refers to you as Texas' chief financial officer, the state's treasurer, check writer, tax collector, procurement officer, and revenue estimator. How many biologists do you employ?

Mr. HEGAR. Yes, our job is to go out and contract with the public universities, which also then have subcontracts with either other universities, that are both public and private, as well as private sectors, to make sure that we collect the data.

Dr. Robert Gulley, who heads up that division—we only have six people in the division. However, the fact is they are all very well qualified. Our job is to not be the biologist, not to be the person on the ground collecting the data, but to ensure that the process by which, the data collection, as well as the process upon which all stakeholders are involved in the process, so we can ensure that Fish and Wildlife or Marine has the information that they need to make the appropriate decision.

Mr. CLAY. So, you have more accountants than biologists.

Mr. HEGAR. You could also say that I run a medium-sized to large law firm, with almost 3,000 employees and over 100 lawyers.

We are a jack of all trades. And interestingly, I am always telling my former colleagues in the Legislature that—thank you for this new opportunity to run a new program, but I would like to just stick with what we are doing.

Our office has been an attractant to all kinds of various things that are way beyond the constitutional scope of my office, this one included. However, we perform the task, and we make sure that we do it right.

Mr. CLAY. It is still important to protect the shorelines of Texas—

Mr. HEGAR. It is important that we protect the economy, protect the species, and make sure the data is given to Fish and Wildlife to make the right decisions.

Mr. CLAY. All right.

Mr. HEGAR. Thank you, Congressman.

Mr. CLAY. Thank you, and my time is up.

Mr. TIPTON. I thank the gentleman. I would now like to recognize Ms. Cheney for her 5 minutes.

Ms. CHENEY. Thank you very much, Mr. Chairman, and thank you to all of our witnesses for being here today. I think this is a crucially important set of issues that we ought to be able to discuss, absent sort of the ideology and the partisanship. We all share the same desire to make sure that we preserve these species that matter so much.

But we also need to make sure that the existing law is not being exploited. I wanted to ask Mr. Willms, if you could speak a little bit more toward this notion of the really unique, bipartisan effort that you have headed up, that Governor Mead headed up, that we have undertaken to try to reform the ESA in a way that is real, in a way that makes sure it is there to preserve species for future generations, but that also helps to protect it from some of the exploitation and abuses that we have seen.

Mr. WILLMS. Certainly. Thank you. First of all, I would say that the Western Governors Association, the Species Conservation and Endangered Species Act initiative had two phases. The first phase finished with a resolution in the summer of 2016 that passed unanimously. And I think it is worth noting that it passed unanimously, and it laid out a series of recommendations—

Ms. CHENEY. Was that even California, Mr. Willms?

Mr. WILLMS. Yes, yes. It laid out a series of recommendations for ways to improve the Endangered Species Act.

Over the course of this second year, we brought in stakeholders from every possible sector you could imagine from all over the country, to have the most complete, bipartisan dialogue on the Endangered Species Act that we have probably seen in a generation to generate the most specific recommendations that the governors have adopted, perhaps, ever through this organization.

It is true that those recommendations were not adopted unanimously, although it was through a super-majority. But the reasons for not adopting unanimously, based on what I have seen, were not necessarily based on disagreement with the recommendations in the resolutions themselves, but a fear about the outcome once those recommendations get to this body. So, that is—

Ms. CHENEY. Thank you. Could you talk a little bit, as well, Mr. Willms, about why it might be—one of the issues that we deal with, as we are looking both at this reform and in other areas, is how states are so different. And what Wyoming might need to do, in terms of managing our species, may be completely different from what other states need to do.

Talk a little bit about why a state might be better positioned to make those decisions and determinations, rather than basically being subject to sort of a one-size-fits-all approach coming out of Washington, DC.

Mr. WILLMS. At a very fundamental level, I think it comes down to a matter of trust. Right? At the local level, at the state level, the trust that you have to build with the stakeholders that are necessary to recover species or prevent the need to list species are largely landowners. There are other stakeholders involved as well.

But it is the state agencies and the state personnel that have the trust and the relationship with those landowners that are able to put programs in place, voluntary conservation programs that can be unique and creative to a set of circumstances on the ground that they know best and they can fit conservation around the needs of their own people. And it is the people on the ground that know each other better.

Ms. CHENEY. And is there a difference, Mr. Willms, in the way that the state, for example, might use data than in terms of what we are seeing at the Federal level?

Mr. WILLMS. Can I have you—

Ms. CHENEY. In terms of the type of data that the state is relying upon, in terms of the caliber of the data, the quality of the data, the transparency.

Mr. WILLMS. States are on the ground doing on-the-ground research every day. We have a wildlife agency that—a lot of people are under the misconception that our state game and fish agencies are only hook-and-bullet agencies, just agencies meant to manage species that are hunted and fished. But it goes well beyond that. We have wildlife action plans to manage species that go well beyond the hook-and-bullet species. And we have data that nobody else in the world has on these species. We are very well situated to be able to put together management plans and conservation strategies for a whole host of species, whether listed or not, to ensure that they are there for future generations.

And we have been successful. We only have 12 listed species in the state of Wyoming, and only 3 of those 12 are located wholly within the state. I would say that is a pretty good track record.

Ms. CHENEY. Thank you very much. And again, I would just like to commend you for your efforts, commend Governor Mead for his efforts on these issues, and urge us to be able to move forward with true reform, absent some of the partisanship that we have seen in this hearing, even this morning.

Thank you very much. I yield back, Mr. Chairman.

Mr. GOHMERT [presiding]. Thank you. At this time the Chair recognizes the gentleman from Colorado, Mr. Tipton, for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman, and I appreciate the panel taking time to be able to be here.

Mr. Holsinger, I would like to direct my first question to you. I thought it was interesting, reading your written testimony, when you were citing the Gunnison sage-grouse—the majority of habitat, which, by the way, happens to be in my district in Colorado. Fish and Wildlife Service has listed the Gunnison sage-grouse. You note in your testimony that they did this despite rising population numbers, rangewide conservation plans, local working groups and conservation plans. And, the state of Colorado has noted and estimated, \$50 million in conservation efforts to be able to achieve rehabilitation of that species.

Do you find this is going to be kind of a chilling effect when you see that type of local effort, that type of local investment, that type of local planning going into actually achieve the goal that we all admire in the ESA toward a species—is that going to create a chilling effect on local involvement, do you believe?

Mr. HOLSINGER. Absolutely, Congressman. That was a terrible shock, and a slap in the face to years and years of hard work, cooperation from the local governments, local landowners, the state, doing tremendously good things for Gunnison sage-grouse.

And I think it is good to remember that the majority of habitat for rare species is either created or maintained by private land ownership and private landowners and their stewardship. This is a great example of no good deed goes unpunished. Many, many people were extremely unhappy at that decision. I think that is why the state of Colorado sued the Fish and Wildlife Service, local governments sued, as well. We hope there will be a better outcome.

Mr. TIPTON. I found it interesting, going through our district, Garfield County, Glenwood Springs had spent an incredible amount of money to be able to do scientific mapping for the habitat for that species. That was ignored.

In fact, reading through a lot of the testimony and some background information, the BLM's own people on the ground in the state of Colorado, their staff, utilizing geographically unique circumstances and data, those were discarded simply by Washington bureaucrats, as well.

I would like to be able to enter, Mr. Chairman, into the record a letter from the Association of Northwest Governments out of Colorado regarding the issues, a letter that they sent to Secretary Zinke that is detailing the concerns that they have with regards to the Gunnison sage-grouse Secretarial Order 3353.

Mr. GOHMERT. Without objection.

Mr. TIPTON. Thank you, sir.

Mr. Holsinger, you work, obviously, a lot with the Associated Council, the Northwest Council of Governments in Colorado. Can you briefly describe and elaborate maybe a little more on the concerns that they have expressed in that letter?

Mr. HOLSINGER. You bet, Congressman. We have heard today a recurrent theme that the Federal Government has historically treated the states and local governments not as partners or neighbors, but as landlords. That desperately needs to change, and I was heartened to hear Mr. Sheehan speak to that.

In this case, the local governments had tremendous local knowledge about greater sage-grouse. Garfield County's terrain is vastly different than almost anywhere else in greater sage-grouse range.

It is very varied, very hilly. So, the Federal Government just ignored all this great local data about “here is what we actually have on the ground,” and instead, blanketed great swaths of the county as greater sage-grouse habitat when it should not have been.

So, many local governments have been very upset at the lack of participation.

Mr. TIPTON. Now, quickly, do you believe there is transparency in the way listing decisions are made under the Endangered Species Act?

Mr. HOLSINGER. I think transparency is a huge problem. In fact, often these decisions rely on the USGS, the science arm of the Department of the Interior. We found them to be the most secretive of agencies. Their guidelines actually say that they believe their information is too important for the public to have access to it. So, we have real problems with transparency.

Mr. TIPTON. I appreciate that and believe that if we are going to be making public policy, it ought to be publicly available, as well. I appreciate your comments.

And with that, Mr. Chairman, I yield back.

Mr. GOHMERT. The gentleman yields. I recognize the gentleman from Virginia, Mr. Beyer, for 5 minutes.

Mr. BEYER. Thank you, Mr. Chairman, very much.

Mr. Holsinger, a quick followup. I think we will probably do this formally, but let me get a question to you about where in their guidelines it says it is too important to be shared with the public. I mean this is fascinating, and should be part of the record.

Mr. HOLSINGER. Yes, Congressman. That is actually in the USGS Information Quality Act guidelines. And when you read those guidelines against the Department of the Interior Guidelines and Policies on Scientific Integrity and Transparency, and the Information Quality Act itself, it is a huge chasm.

Mr. BEYER. Great, thank you for bringing that to our attention.

Mr. Sheehan, congratulations on your acting status, I think.

We have had the debate, for the measly 31 months I have been here, about the de-listing of wolves—Wyoming and the Western Lake states, specifically. So, if this legislation is successful, and the original Fish and Wildlife Service de-listing process goes forward, and there is no judicial review, how long before the wolves are endangered again? If you can again hunt them and I know they are not particularly popular with the hunters and the ranchers.

Mr. SHEEHAN. Well, I think, as we look back at that, there is this, oftentimes, misbelief that states don't try to do good management conservation of all the species in their states. And I guess, coming as from a prior State Director, we did not agree with that. We believed that we could manage the species in our state.

If you look to a congressional action that was done a number of years ago on de-listing wolves in Idaho and Montana, primarily, that was not subject to judicial review. I think that there would have been an outcry that soon these wolves in these two states that were no longer listed would soon be eradicated or back into a threatened condition.

From the last data I have seen, and I think it is still pretty current and accurate, those populations of wolves in those states that

were congressionally de-listed are still very similar to what they were 5 or 6 years ago, when that action was taken by Congress.

So, I am not a believer that those are going to be de-listed and suddenly eradicated off the face of the Earth. And part of the de-listing decision, it is important to realize, is that mechanisms must be in place by states before that de-listing to protect those.

Mr. BEYER. Mr. Corwin, one of your criticisms of this piece of legislation was that it denies citizens access to the courts to challenge the Fish and Wildlife Service decision.

Mr. CORWIN. Absolutely—the greatest opportunities for environmental stewardship. And when one has a chance to step up and speak out for a resource to be wisely managed, that individual has a duty, and we need to have a responsibility to provide them a voice and a proper environment to share their opinions.

As for the wolves, while they are very polarizing, we know for a fact that the restoration of wolves in the Greater Yellowstone ecosystem brought about a tremendous sense of balance. Prior to the wolves, after they were extirpated since the end of the 19th century, there was one pair of beaver in the entire Yellowstone National Park. With the recovery of the wolves, it brought management of game to carrying capacity. Beavers came back, because they had access to willow. That willow then created waterways and aqua systems that caused an increase in amphibians.

So, we can see how the restoration of endangered species can have a ripple effect as it plays its role as a keystone species.

Mr. BEYER. All right, thank you.

Mr. Sheehan, this may have already been asked, but in Congressman Newhouse's bill on saving America's endangered species—or maybe the one before, H.R. 1274—he talks about automatically defining data submitted by states, tribes, and counties as scientifically—the exact language—best available science, and that Fish and Wildlife Service would have a problem with that.

Will you recommend amending that to fix it so that the data can be submitted, but would be treated as data with comparable scientific integrity?

Mr. SHEEHAN. I think we would like an opportunity to work with the bill's sponsor on that, and make sure that that data is elevated and evaluated in a proper form and fashion, as you have suggested, Mr. Congressman. And, hopefully, we can work on that bill as it works its way through, so that we work out any bugs that may be in there.

Mr. BEYER. Thank you very much.

Mr. Chair, I yield back.

Mr. GOHMERT. Thank you. At this time the Chair recognizes the gentleman from Arizona, Dr. Gosar, for 5 minutes.

Dr. GOSAR. Thank you, Mr. Chairman.

Mr. Corwin, the Defenders of Wildlife is a particularly litigious special interest activist group. Just in the past few years, the Defenders have boasted of filing scores of species-related lawsuits. Meanwhile, during the Obama administration, Defenders received about 10 grants from the Department of the Interior, totaling more than \$150,000.

Mr. Corwin, yes or no, are you here today as a representative of the Defenders of Wildlife?

Mr. CORWIN. No, I am not.

Dr. GOSAR. Mr. Corwin, yes or no again, the Director of Legislative Affairs for the Defenders of Wildlife directly submitted your written testimony to the Committee on your behalf. Did you author your own testimony for today's hearing?

Mr. CORWIN. Absolutely.

Dr. GOSAR. Mr. Corwin, neither the lengthy biography or disclosure form that you provided to the Committee indicate any type of affiliation with Defenders of Wildlife. What is your affiliation with the Defenders of Wildlife? Are you a member of their Board of Directors?

Mr. CORWIN. I am not a member of the Board of Directors. I was before, but I have not been a member of the Board of Directors for some time.

Dr. GOSAR. Is there a reason why you are no longer a board member?

Mr. CORWIN. Because my term limit came to an end.

Dr. GOSAR. Thank you.

Mr. Sheehan, I wanted to talk to you about some of the inadequacies, particularly of one species where it has gone astray, and that is the Mexican gray wolf. You knew where I was going.

Once again, under ESA we are actually looking at taking non-typical habitat and providing a habitat, particularly in Colorado and Utah, which wolves were never a part of. And Fish and Wildlife Services have actually looked at exploiting that, have they not?

Mr. SHEEHAN. Certainly a couple years back, and I will have to put on my past State Director hat, because as a director of Utah, we certainly engaged in conversations with leadership of the Fish and Wildlife Service about how they may view an expansion of habitat into Utah and Colorado.

I will say, to the credit of the Fish and Wildlife Service, they were willing to come together with our states and our wildlife managers and re-evaluate some of the modeling that had been in place and scientific evaluations. We brought all of our best scientists together.

And a new draft recovery plan came out just a few weeks ago that defines a recovery zone more into the area of the country of Mexico, rather than back north of Interstate 40, where we don't believe—or I did not, as a State Director in our state, and the Colorado State did not believe that that was historic habitat.

Dr. GOSAR. But that was only after dismal failure, because the recovery plan was, at best, up to that point, a basic malpractice case. We saw an anemic recovery plan. We saw truly a process that did not actually work. And it actually shows that we need to have a better relationship, geospatially, with Mexico in that application.

For Mr. Willms and Mr. Holsinger, we are now hearing about the sixth massive die-off. And the way that we are approaching the endangered species, wholesalely, does not work. You made, particularly, innuendos in regards to working with local communities, and particularly landowners. I want you to, if you have any extra ideas that you need more time to expand on besides what you gave to Ms. Cheney and to Mr. Tipton.

I will start with you, Mr. Willms.

Mr. WILLMS. As far as better places for state engagement?

Dr. GOSAR. Yes, absolutely.

Mr. WILLMS. I think we identified a few places in the Western Governors Association resolution. One of the places under Section 6 of the Endangered Species Act, there is a provision that calls for cooperating with states to the maximum extent practicable. What maximum extent practicable means is defined differently by every region of the Fish and Wildlife Service, and it can be as much as a phone call to working very cooperatively with states.

So, I think a better understanding of what that means, and creating more opportunities for states to implement portions of the Act through that provision of the Act would be incredibly helpful.

Dr. GOSAR. And wouldn't you agree that if a constituent actually gets to share and enjoy it, they actually have tentacles to provide and preserve?

Mr. WILLMS. Absolutely. One of the things we have been looking at is how do we go from having the Endangered Species Act being viewed as a hammer by the landowner community to one that is incentivizing involvement in conservation.

Dr. GOSAR. Well, I appreciate it. I only have 10 seconds left, so let that come for another time. Thank you.

Mr. GOHMERT. Thank you. The Chair yields to the gentleman from California, Mr. LaMalfa, for 5 minutes.

Mr. LAMALFA. Thanks, Mr. Chairman. A couple things here. In 2016, we had issues come to Northern California on water demands, water needs. And I will direct this to Mr. Sheehan.

The need for—there were conflicting issues with the water up in Shasta Dam in Northern California. National Marine Fisheries Service wanted to reduce releases from Shasta to preserve salmon by keeping more cold water, keeping it longer into the year. At the same time, the Fish and Wildlife Service wanted to have increased flows going out the delta for smelt.

So, they are completely conflicting in what the use of the water is supposed to be, coming out of that lake, even to the extent that they were not going to guarantee that farmers could get crop water in the spring because of a strategy to hold more cold water in behind Shasta until there was so much water in the lake that they figured they could get away with allowing farmers to farm.

What I would ask from Mr. Sheehan, has the current administration taken a position on this issue of consolidation, or what steps can the Service take to improve the coordination—and that is the important part—and the decision making of agencies before executing plans that are counter to each other, and totally confusing for people that are on the sidelines trying to sort out what it is they should be doing for water supply issues they would have that are dependent on that water source?

So, where you have Fish and Wildlife and Marine Fisheries in complete conflict, and the people caught in between, what has the Administration done to look at that?

Mr. SHEEHAN. Thank you, Mr. Congressman. That is an issue we need to rapidly engage discussion on with Marine Fisheries and Fish and Wildlife Service.

You said the word exactly correctly. How do we coordinate that? How do we define what the proper balance of conservation is?

I think that sometimes we see it as sort of these conflicts between the Federal agencies. All I could tell you is I worked on sage-grouse. In recent years, we saw—trying to work on landscape conservation efforts for these species. The rule book that we ran into with the Bureau of Land Management looked a little bit different than the rule book of what the Forest Service had for birds that shared the exact same habitat during the same—

Mr. LAMALFA. Well, you talk about the need to do so. Is there anything underway to review that and get an action going on that, we had plenty of water this year, and it kind of covered over a possible issue with that. But, if we don't get the type of rainfall, we don't have as full of a lake or system, then we could be caught right back in this again and again.

With conflicting agencies that are supposed to work for the people, and they cannot decide, and people are caught in between, it is like, "Go ask your father, go ask your mother," for some kid trying to decide what they want to do, only this is real life.

Mr. SHEEHAN. Sure. I guess all I could say at this point is I am pretty new coming into this role, and it is something that I really need to get on top of. I appreciate that feedback, and we would be glad to come back and report what we are learning right to you and your staff, if that would be helpful.

Mr. LAMALFA. Please. I would like that. Thank you. We will give you a shot at getting a good look at that.

For Mr. Holsinger, we have had legislation by Mr. Huizenga, which was presented earlier, I understand. I had three committees this morning, I am sorry. I am co-sponsor of that and it will help with the end of the practice of groups suing the Federal Government as a business plan.

So, would this actually help improve the ability of the Service to fulfill its mandates, in addition to just having a little litigation relief, where people are actually making a living at that? Would it be able to, instead, focus on what the mission is of fulfilling ESA and the Service's needs, instead of maybe frivolous lawsuits?

Mr. HOLSINGER. Yes, Congressman, I believe so. The Service has to spend an inordinate amount of time dealing with these deadline lawsuits. The budget issues, the attorney fees collected at the end of the day are a tremendous drain. This legislation would, I think, remove one of the worst incentives for that very kind of litigation.

Mr. LAMALFA. It is merely aligning it with the type of reimbursements paid on other types of litigation outside of this realm, right?

Mr. HOLSINGER. Yes. In addition to more flexibility on the deadlines to the Service, it would point to existing Federal law in regards to how attorney's fees are recovered.

Mr. LAMALFA. Yes, thank you. My time has expired. Thank you, Mr. Chairman.

Mr. GOHMERT. Thank you. At this time the Chair recognizes the gentleman from Louisiana, Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. And I am echoing what has been said here. We are grateful for all of you for your time and your expertise today. I apologize in advance for any duplication in the questions. We are all bouncing in and out for other meetings and things today. You know how it works.

Mr. Sheehan, a couple questions for you. A Government Accountability Office report on the deadline suits we have talked about a lot today—by the way, the report was commissioned by Ranking Member Grijalva—they found that the Service prioritizes the completion of listing actions mandated by closed-door settlement agreements resulting from the lawsuits, and that during Fiscal Years 2005 to 2015, the Service largely focused its Section 4 activities on completing actions required by those legal cases. And the 2011 mega-settlement played a major role in the agenda.

So, here is the question. If the Fish and Wildlife Service misses a deadline to make a determination on a listing or a de-listing petition, they don't really have much of a defense when they are sued. Isn't that correct?

Mr. SHEEHAN. That is true. We are very limited and we have, obviously, limited resources to address every species that may come through the front door as a petition.

Mr. JOHNSON. In that regard, the agency is almost like a sitting duck for these legal attacks. That is what I will say. They are used as an offensive weapon.

Mr. SHEEHAN. Yes, and I don't mean to imply that we won't devote resources to those species. But hitting 90-day and 12-month findings can be very challenging at times, and I think that has been demonstrated for quite a number of years now.

Mr. JOHNSON. The study also concluded that compliance with the mega-settlement agreement in 2011 that was pushed by these environmental groups swallowed nearly all of the petition and budget resources for that activity. Isn't that right?

Mr. SHEEHAN. I wasn't here during that time, but I could tell you that certainly that changed the focus on how and when the Service had to address priorities through this process.

Mr. JOHNSON. Let me ask you about an issue that is very perplexing in my state of Louisiana. Our Committee staff here met with your southeast regional staff last month to get an update on the Louisiana pine snake. And in that meeting, the Service's staff indicated that the region has been overwhelmed in its efforts to appropriately manage hundreds of species from the mega-settlement agreement.

In your written testimony you said, "The time and cost of litigation is one of the significant challenges we face in implementing the ESA." How did the mega-settlements impact implementing the ESA, both at the headquarters level and then in the regions themselves?

Mr. SHEEHAN. Thank you, Congressman. I am really still trying to learn, quite honestly, how much of our resources through our ecological service team—the folks that are out there, doing that—are providing data and addressing litigation that might be out there, not just on these timelines, but on other litigation that may exist, versus what our folks are able to do out in the field to affect good conservation.

I come from a background where we try to do collaborative conservation. I think that is key, working with communities and partners, landowners. We have heard a lot of that today, but it is so true.

I would hope we could get to an environment where we have more partnership arrangements, rather than litigation arrangements, because there is only ever going to be so many resources to go around in this agency or any other government agency. I hope we can do the best that we can with those, rather than tying up too much of that in litigation.

Mr. JOHNSON. Well, the Louisiana pine snake is a case study in absurdity. It has only been seen, like, five times since 1940, and it supposedly lives several feet underground. Yet, we have taken tens of thousands of forestry acres out of commerce for a snake that no one likes and is rarely ever seen.

Let me go on. Mr. Holsinger, you were talking about the 1,500 lawsuits that your study found since 1990—I believe that is right. As a former public interest law litigator, I am particularly concerned about the exorbitant attorney fee rates we have talked about for these environmental litigators. Wouldn't you agree that environmental law is no longer a rare or specialized field to the point that it justifies these higher attorney fee awards and hourly rates?

Mr. HOLSINGER. Yes, it is quite an extensive field these days, unfortunately.

Mr. JOHNSON. I remember when I was in law school 20 years ago and we started our environmental law clinic. It was this new-fangled thing. Everybody was excited about it. Now every law school in the country, virtually, has one of those. Isn't that right?

Mr. HOLSINGER. It is quite prevalent.

Mr. JOHNSON. We used to charge no more than about \$250 an hour for public interest law work, and these guys are getting close to \$800 an hour. And it just does not seem justified any longer.

I hope this legislation will correct a lot of these problems. I am out of time, but again, I agree and thank all of you for your time and expertise today.

Mr. GOHMERT. Thank you. The gentleman from California, Mr. Costa, is recognized for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman and Mr. Ranking Member, for holding this, I think, important hearing.

I am not going to ask any questions to the witnesses as it relates to the need, I believe, to amend and make modifications in the Endangered Species Act since it was put into law in 1973, but I would like to make a statement.

Over the 13-plus years now that I have been in Congress, I have raised a number of concerns pertaining to how the Endangered Species Act is implemented, and how its implementation impacts not only the entire country, but what I am most familiar with in California and in the San Joaquin Valley.

Many of the bills here today address concerns that I have raised in the past with regards to the ESA. For example, two of the pieces of legislation discussion are addressed with the notion of using sound science. I have long said that there is an entire body of scientific knowledge that should be considered in order to ensure that regulations and limitations on economic activity under the ESA are appropriate, fair, and increase the recovery of those listed species.

As we know, the evolution of science continues to increase. We are better at it. We have more knowledge than we had in 1973 and over the last four to five-plus decades.

Another piece of legislation addresses non-native species. We have had to contend with non-native species issues in California for years. Let me give you an example. I have introduced and gotten legislation passed that would explore the impacts of striped bass predation on listed species, native species in California, salmon and delta smelt, to begin to address these by implementing programs that, in fact, remove these non-native species that were introduced into California waters in, I believe, 1876. And we know that hot spots in certain waterways create vast impacts of predation, but yet we don't contend to deal with that.

However, if we believe that ESA policy uses sound science, that we know continues to increase and become more effective, we also need to have regular consultation with affected stakeholders. These principles must guide our response, whether we like the outcomes or not.

More importantly, we must move past the talking points to get to constructive solutions that modernize the Endangered Species Act to address all the impacts that are sure to come, impacts on ecosystems. We know today, climate change makes a big difference, and we acknowledge the impacts of climate change as it relates to the implementation of the ESA, but not always evenhandedly or fairly.

The Act must reform to accommodate some of these changes and develop the new science that continues to increase at a phenomenal rate. Provide flexibility in the Act, that is important. Obviously, the best way to avoid lands being regulated under ESA is to put policies in place to avoid the listing of species. Habitat conservation plans work well.

So, there are a lot of things that we need to do. We know dinosaurs, of course, don't exist any more. And ecosystems that continue to change will endanger more species over time. But the fact is that, under the current policy, expansive critical habitat designations for some species with significant native consequences of economic development activities will need to be developed, or that the critical habitat designation under the process of the Act's regulations must be modified to be more adaptive. These are among many of the things that we need to do.

Additionally, the Act regulations must allow for reasonable and prudent alternatives to be modified in new science brought to bear to understand these complexities and these changes. There is no simple answer to these challenges, but the truth is that the only path toward Republicans and Democrats coming together in this Committee to stop the political posturing, that too often is what we do in this Committee, to various special interest groups—and, in fact, we need to come together to have an honest discussion to address the needs of our communities in a thoughtful, constructive way that I think will allow us to move forward.

Thankfully, in the absence of congressional action, governors across the West are having significant discussions on ways to reform the Endangered Species Act and to implement policies to avoid—to avoid—listing decisions.

I appreciate my colleagues raising these issues. These pieces of legislation are important. I remain committed to finding common-sense solutions to actually move this forward in a real bipartisan action, and hopefully to put aside the political posturing that too often is how we characterize this discussion.

Thank you, and I yield back the balance of my time.

Mr. GOHMERT. Thank you. At this time the Chair recognizes the gentleman who replaced the current Secretary of the Interior from Montana, Mr. Gianforte.

Mr. GIANFORTE. Thank you, Mr. Chairman and Ranking Member Grijalva. And thank you to the Committee. I will add my thanks for your testimony today. I appreciate this conversation.

I will direct my comments to Mr. Sheehan. The rules de-listing the wolves were, as you mentioned in your testimony, based on the best-available science, were consistent with the requirements of the ESA, reflected extensive work with states, and a deliberative public comment process.

I recently had the chance to go into the field in Montana with the Interagency Grizzly Bear Study Team, and learned about their habitat and the recovery that has gone on. That work had gone on for, as you are well aware, 40 years, collecting data on the grizzly bear. Their data analysis and scientific research has been central to the recovery of the grizzly bear population in the Yellowstone ecosystem, and the recent de-listing was a win for the grizzly bear and for Montana.

I also learned, while I was on the ground there, that in fact, the grizzly bear population in the Yellowstone ecosystem had reached maximum carrying capacity of the habitat 15 years ago. And, despite scientific evidence of their recovery, some groups believe it should continue to be listed as an endangered species in perpetuity. I was pleased to see in your testimony that you do not share the belief of several environmental groups, that species should be listed indefinitely.

My questions really focus on the work of the U.S. Fish and Wildlife. In particular, what is the process for determining recovery goals for a given species on the list?

Mr. SHEEHAN. Well, it gets back to what we have talked about a number of times today, first of all, good science. What are those critical habitats? What are the measures that need to be evaluated that are in place?

As they are listed—as I said, what do we need to do to get them out of the hospital as quick as we can? And I think that diagnosis—again, define your recovery plans, define those critical habitats, and the needs of that species, what are the functions that got them to that point in the first place? So, I think that there have been excellent efforts by the states and by many partners.

You mentioned that interagency work group to do that. As we go through that, typically a recovery plan is going to lay out some timelines, some costs, some efforts that need to be undertaken. I think that is pretty systematic. I think where it gets gray is once we achieve the recovery, then what? And that is why I hope we would move forward for de-listing.

Mr. GIANFORTE. Yes, so science is at the heart of making the decision in the listing.

Mr. SHEEHAN. Absolutely.

Mr. GIANFORTE. But let me drill into that a little bit on the recovery goals. What is the process that the Service uses to determine when you have met those goals?

Mr. SHEEHAN. Well, again, normally some of those are very, very definitive. They could be population numbers, they could be numbers of acres of land that are protected in some permanent fashion. Any one of those recovery goals, depending on what the species is, is going to have a very different set. But they are going to be a consensus of the Fish and Wildlife Service, typically of states, typically of those who are engaged in that process.

And again, dependent on if that is a fish species in Florida or a grizzly bear in Montana, this could be very different. But I think that the process of evaluating the needs of that species come first and foremost.

Mr. GIANFORTE. OK. And when a species is listed, are those definitive recovery goals always established when the species is put on the list?

Mr. SHEEHAN. No. Many species do not have recovery plans in place right now. That would be something that I would like to see the Service work toward.

Mr. GIANFORTE. Yes. It is kind of hard to hit a target when you don't have a—

Mr. SHEEHAN. Yes. I believe about a third of the species listed on the ESA do not have a recovery plan in place.

Mr. GIANFORTE. OK. Has the Service determined scientifically that the gray wolves have recovered in Wyoming and the Western Great Lakes?

Mr. SHEEHAN. Yes, Congressman. That was done in two different reports at two different times, or two different determinations, that all those factors have been met. The populations have been achieved that the regulatory mechanisms that exist in those states to protect those as a listed—whereas now it would be a non-listed species—are sufficient to meet that bar to turn those over.

That is a great accomplishment, and I think when we see those sorts of successes—be it wolves, be it grizzly bears, and any number of other species—we need to celebrate that. We need to turn that back over and say that is how the Endangered Species Act is showing success, not assuming that once we extract that species out of state management into Federal management, that once and for all it will live there forever.

Mr. GIANFORTE. OK. Thank you very much. I yield back, Mr. Chairman.

Mr. GOHMERT. Thank you. At this time, the Chair welcomes back to the Committee, temporarily, the gentleman from Colorado, Mr. Polis, for 5 minutes.

Mr. POLIS. Thank you, Mr. Chairman. I am honored to join the Committee today. As a previous member of the Committee, I was very interested in joining this conversation, and continue to be, about the importance of the Endangered Species Act.

As you know, since 1973 the Endangered Species Act has rescued dozens of species from extinction, helped more than 2,000 threatened species throughout the country. And those protections are

critical to maintaining the diversity and functionality of our ecosystems.

I represent a state and district where over 60 percent of the land is public land, and our wildlife is, frankly, the building block of our economy and jobs. And without the Endangered Species Act, my district and our state's economy would suffer severe damage.

Mr. Corwin, I understand you discussed the black-footed ferrets during your statement. The ferrets are a great example of how the Endangered Species Act has been successful. In my own district in Colorado, we had a history-making day in 2014, thanks to the Endangered Species Act. In 2014, about 25 miles north of Fort Collins in my district, right near the Wyoming border, the black-footed ferret was released back into its native habitat on the Soap Stone Prairie Natural Area.

As you know, it was twice declared extinct, incorrectly. But, because of the Endangered Species Act, between 1985 and 1987, the species was saved, and the surviving 18 ferrets that the U.S. Fish and Wildlife began a breeding program with are now on their way to over 3,000 individuals.

Would you say that, without the Endangered Species Act, Mr. Corwin, do you think states like Colorado would have successfully brought back black-footed ferrets into the wild? And what challenges still exist?

Mr. CORWIN. Well, it is interesting. I remember filming the black-footed ferret almost 20 years ago, and it was not doing well. But one of the critical partners in the restoration of the black-footed ferret was the Denver Zoo. And the state of Colorado is a huge partner. I believe states are partners with the Federal Government in managing the species.

But we know for a fact, when they are restored, there is great benefit. Look at the state of Florida. The recovery of the critically endangered alligator. We now know that this is a keystone species. And with the recovery of this species, we see healthier waterways, we see good prey abundance for predators. So, there is a tremendous benefit to the restoration of these species, both an aesthetic, recreational, and economic benefit. And I think both the state and Federal folks served as partners together.

Mr. POLIS. Mr. Willms, moving on to that example of states working together, our states of Wyoming and Colorado have worked to protect the sage-grouse habitat, not only important for that particular bird, but of course, also for deer, elk, recreationalists, hunters, and so many others for whom protecting the sage brush ecosystem is such a high priority.

I see the work done on sage-grouse as a huge success. It shows how flexible and accommodating the Endangered Species Act already is. I believe most of my Western colleagues agree that the last thing Western states and communities need is the BLM, a Washington agency, conducting a rushed internal review process, and substituting that over the hard work of our stakeholders in the states, 11 states and many years of hard work.

My governor in Colorado, Governor Hickenlooper, a Democrat, along with Governor Mead of Wyoming, a Republican, have met and sent letters to Secretary Zinke about the states' efforts on sage-grouse, and have said that the plans do not need to be over-

ruled by Washington insiders, and do not need significant change at this time.

Can you explain why Wyoming invested so much time and effort into sage-grouse conservation, and why do you think there is this kind of Washington, DC attempt to overthrow what we are trying to do in our states?

Mr. WILLMS. Well, as far as why we invested money in sage-grouse conservation, it is because it was the right thing to do. About 40 percent of all sage-grouse in the world are within the state of Wyoming, and we take our job to conserve wildlife for today and for future generations as critically important. So, we did it because it is the right thing to do.

Mr. POLIS. Why do you think there is this effort at the Interior Department to kind of over-rule, and over-rule what we and our states have already done with regard to sage-grouse preservation?

Mr. WILLMS. I don't think I can speak to what the motivations behind what Interior is looking to do right now. We are looking forward to continuing to work closely with them, and hope that we can come up with solutions that work for all states, so that we can continue. Because right now, sage-grouse are still state birds, and we want to make sure we continue—

Mr. POLIS. And I would like to highlight this success story, because in Colorado and Wyoming I think we have shown that the Endangered Species Act can encourage a collaborative, proactive approach involving not just state governments, but local governments, the private sector, and recreationalists. And protecting the sage-grouse habitat so that a listing wouldn't be necessary is, frankly, a great success story of, really, our local efforts coming up with a solution that works for our area. And I applaud both Wyoming and Colorado in that regard.

Mr. GOHMERT. The gentleman's time has expired.

Mr. POLIS. I thank the gentleman for the time, and I yield back.

Mr. GOHMERT. Thank you. At this time the Chair recognizes the gentleman from Florida, Mr. Soto, for 5 minutes.

Mr. SOTO. Thank you, Mr. Chairman. We all know why we are here today. In 1973, Congress finally had the vision to pass the Endangered Species Act. Before that, for decades, we saw so many critical species either go extinct or come to the brink of that. And the program has been a smashing success: 99 percent success rate.

I come from Florida, where we have the Florida panther, the bald eagle, the Florida manatee, and the alligator, and I just want to thank you, Mr. Corwin, for talking about your experiences, because I think that gets lost in all this, this idea of what obstacles there are for certain businesses, but we don't look at the big picture. And I think that is what we really have to focus on here.

Before the passage in 1973, how difficult was it, Mr. Corwin, to really protect our species here in the United States?

Mr. CORWIN. Well, we had an incredible evolution in our country when it comes to conservation. And, in fact, you can look to one of the first creatures to be recognized for national conservation. It was the heath hen. It is a great example of when we sit back and we think a job is done, that you can have calamity.

The heath hen was recovered and began to appear on the heaths of the various islands off the coast of New England. It had almost

disappeared. The numbers exploded to over 2,000 animals. They called it the heath hen because everyone would gather together and watch them in their little breeding leks. There is one very famous one named Booming Ben. A couple of bad winters, some feral cats and dogs, and one day there was only one heath hen left; it was Booming Ben. Every day he would come out, and boom, then one day it was quiet, and that was the end of the heath hen.

So, I think it is incredibly important that we recognize the value of this policy, and also recognize that, historically, the ESA was not politically based. Remember, it was produced in an administration that had tremendous challenges. And if it wasn't for Richard Nixon and his policies, we would not have bald eagles today.

I think what is unique about Americans is we recognize the value of our natural resources, we celebrate the value of natural resources going back to Teddy Roosevelt, John Muir, through the work of Rachel Carson. And today we, as Americans, are unique. We have such a splendid tableau of valuable species and landscapes, and it can only stay through wise, pragmatic, common-sense management. I believe the ESA is a big partner in that.

Mr. SOTO. Sure. And we see a bevy of proposed bills today with the over-arching theme of potentially whittling away at the Endangered Species Act. What would be your recommended reforms? Is the system working? Are there things that we can improve upon it?

Mr. CORWIN. I think there are many successes and many challenges with the Endangered Species Act. And there is always room for improvement.

I do believe there is an incredible innate natural partnership that exists between the Federal Government and state agencies. And, in fact, as has been said here, many of the state folks, they are the ones that have skin in the game. This is their landscape, their resources.

But in the end, when we protect a species such as the Louisiana pine snake, which I disagree with the Congressman, but I love that snake. It is an awesome species of snake, but that isn't just for Louisiana. Louisiana is the steward of that for our entire Nation. That snake has a very vital role to play in the ecosystem.

I believe that there is improvement to be made, but I think in many ways we can strengthen the opportunities that the Endangered Species Act can use to ensure the conservation and survival of our most imperiled, uniquely American species.

Mr. SOTO. I want to end with the economic benefits of the Endangered Species Act. A lot of people watch your show, obviously. They are very interested in seeing our environment. But there are also local tours, there are also wilderness hikes, and so many different things.

What do you think it means, economically, for those types of industries, from television down to hiking, to have this Act in place, as it is now?

Mr. CORWIN. There is huge value in nature. There is the aesthetic value, there is the symbol of nature as a representation of who we are as a nation. There is the economic and commercial value of natural resources. It is all about wise and pragmatic management.

Coming from Florida, natural resources, when it comes to fishing, or when it comes to observing wildlife or connecting with a nice, clean, healthy coastal ecosystem, that is a big draw, economically, commercially, and recreationally, for your state.

Mr. SOTO. Thank you.

Mr. GOHMERT. Thank you. The gentleman's time has expired. At this time we have one last valued member of the Committee to recognize, the gentlelady from American Samoa, Mrs. Radewagen, for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman and the Ranking Member. I too would like to add my welcome to the panel for appearing today.

I have a question for you, Mr. Sheehan. I understand one of the prior questions was casting doubt on the Interior Department's review of the BLM's greater sage-grouse plans. Do you want to comment on the importance of this review for several Western states?

Mr. SHEEHAN. Sure. Thank you, Congresswoman. I think the intent of that Secretarial Order from Secretary Zinke was to say, were the plans that were Federal plans—land management, Forest Service, but primarily BLM, as it is within the Department of the Interior—were those in concert with what the states' conservation plans looked like?

Under a prior administration, Secretary of the Interior Salazar came to the states and said, "Go identify good management in your states, we want to see what it looks like," because it is different, as we have heard today. Sage-grouse management in eastern Wyoming, or eastern Montana even, looks very much different than sage-grouse management in western Nevada or in southern Utah.

So, the question was, as these plans came in, were they looking at a one-size-fits-all model, or were they looking at what the states had to define, what works well within their local sage-grouse management strategies, their plans, and do those best align themselves?

So, I think it may have been premature for a discussion of how will this review under the Secretary be forthcoming to change those plans, or will it just acknowledge what exists at the states and see perhaps how those could be fine-tuned. That is yet to come. That will be released on the first of August, and then we will see what that tells us.

Mrs. RADEWAGEN. Thank you.

Mr. Sheehan, our friends across the aisle will point to funding as a solution to the problems that countless witnesses have highlighted with ESA over the past four Congresses.

However, funding increased under the Obama administration, and yet the problems persisted. Problems that drained resources away from conservation and have been perpetuated by environmental groups through unending litigation and an onslaught of petitions. Each species on the list costs taxpayers money, including those species that have recovered and could be transferred to state management.

How would the ability to de-list more recovered species impact available agency resources and allow for more focus on species that are in the recovery or listing process?

Mr. SHEEHAN. Thank you again. Getting more species off the lists helps us focus on those that are in need of care right now. And I would hope that it would also reduce some of the litigation that also detracts from our ability to do conservation.

There is no doubt about it that, whether the budgets go up or down, we are still going to have to look to collaborate with our communities and the people on the ground. We have heard that over and over today, the people on the ground who are bringing resources, and sometimes that is industry, sometimes it is local government, and sometimes it is a private landowner. It comes from many different places. Those are, first and foremost, where the dollars are coming from to conserve species across America. It is not all coming through a Federal budget channel.

We still need enough money within the Fish and Wildlife Service to administer a program. But if we cannot look to those folks outside to help, then I certainly don't think that we should have the Federal Government be the first stop for funding all conservation in America.

Mrs. RADEWAGEN. Thank you. Actually, I have three or four more questions for you.

Mr. SHEEHAN. OK, I will be brief.

Mrs. RADEWAGEN. I am really out of time here, but let me throw another one at you.

Mr. SHEEHAN. OK.

Mrs. RADEWAGEN. Each species and candidate species requires agency investments in science, surveys, and data. While the Federal Government, in practice, relies upon mostly Federal information, such data is available from a variety of sources, including states, tribes, and local governments. Would the utilization of data from those sources free up some of the pressure on agency resources?

Mr. SHEEHAN. Absolutely. The more good data we can get from the more sources, the more good research we can get from the more sources, it is only going to make better decisions, and we will be able to, hopefully, expedite those decisions as well as we obtain that data.

Mrs. RADEWAGEN. Mr. Chairman, I yield back. Thank you.

Mr. GOHMERT. The gentlelady yields back.

At this time, I want to thank all the witnesses for your patience and for your valuable testimony. It means a great deal. I appreciate the Members' questions.

Under Committee Rules, members of the Committee may have some additional questions. If so, we ask that they submit them within 3 business days following the hearing by 5:00 p.m. The hearing record will be held open for 10 business days to receive the responses.

I have three letters to enter into the record in support of H.R. 424. The first is from the Public Lands Council and National Cattlemen's Beef Association; the second is from the American Farm Bureau Federation; and the third is from the Minnesota Farmer's Union.

Hearing no objection, it is so ordered.

It just is a pleasure to have you here testifying as to your own experiences. It is a pleasure to be serving with, you heard the term

“Washington insiders,” we are serving here on the Committee with Members who are elected from the states and really come here as outsiders. We appreciate your efforts and our efforts to return power to the states and people.

If nothing further, this Committee is adjourned.

[Whereupon, at 12:59 p.m., the Committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

## Rep. Grijalva Submissions

HUMANE SOCIETY LEGISLATIVE FUND

July 24, 2017

Hon. ROB BISHOP, *Chairman*,  
Hon. RAUL GRIJALVA, *Ranking Member*,  
*House Committee on Natural Resources*,  
*Washington, DC 20515*.

Dear Chairman Bishop and Ranking Member Grijalva:

When people think about the canned hunting of lions, where captive lions are stocked and shot within fenced enclosures, the African savanna is typically the location that comes to mind—but that might be about to change. If Congress passes H.R. 2603, the innocuous-sounding and deceptively named Saving America’s Endangered Species Act, this despicable activity may become commonplace across the United States. The bill eviscerates protections established by the Endangered Species Act (ESA) for species that are nonnative to the United States. The legislation could have far-reaching implications not just for lions but also for many other species, including elephants, tigers, leopards, rhinos, and chimpanzees.

Captive, or “canned,” hunting operations exist in numerous states, but thanks to ESA safeguards these operators cannot stock their enclosures with foreign ESA-listed species such as lions or elephants. Yet some members of Congress are intent on carving out ESA exemptions to this for the benefit of canned hunting ranches. After a federal court required ranch operators to apply to the U.S. Fish and Wildlife Service (FWS) for permits to shoot and kill three species of endangered African antelopes in canned hunts, Congress intervened to pass a bill removing the requirement. Another bill, the Sportsmen’s Heritage and Recreational Enhancement Act, awaiting introduction to the House, gives a further nod to trophy hunters. Among other troubling provisions, the bill removes federal protections for gray wolves in Wyoming and the western Great Lakes, allowing the resumption of trophy hunting and trapping in those states, and creates an exemption to the ESA and Marine Mammal Protection Act for 41 trophy hunters to import the bodies of polar bears—a federally protected species—that they killed in Canada.

H.R. 2603 also could increase the U.S. market for imperiled foreign species and their parts, thereby stimulating global wildlife trafficking. The United States is a principal end-market for ivory, the traffic in which causes the killing of more than 35,000 African elephants every year and fuels the rapid decline of the species. The ESA helps protect the African elephant—a threatened species under the Act—by banning, in most instances, the interstate sale of ivory. Although importing ivory from recently killed elephants is also illegal, wildlife traffickers regularly smuggle ivory into the country. If H.R. 2603 passes, the interstate commerce of ivory in the United States would likely become legal, spurring demand and providing an even greater incentive to traffickers to smuggle in their wares.

Americans value and have great respect for the majestic nonnative wildlife the ESA protects, as evidenced two years ago when the nation issued a collective gasp of horror after Minnesota dentist Walter Palmer shot Cecil, a beloved African lion, just outside Hwange National Park in Zimbabwe. People launched online petitions, held vigils, and protested and boycotted Palmer’s office for weeks. If H.R. 2603 passes, endless Cecils could be bred for the bullet and shot in pens by anyone willing to dish out a few dollars. After all, traveling across state lines to a canned hunt is a lot easier than flying to Africa.

As people learn more about the macabre world of trophy hunting, and the organizations that promote it, such as Safari Club International, public disgust will continue to grow. A 2015 poll from HBO Real Sports/Marist Poll, conducted after the death of Cecil, showed that a whopping 86% of Americans find the sport hunting

of big game such as lions and elephants distasteful, and 62% think it should be illegal.

Endangered and threatened species, whether native to the United States or not, desperately need all the protection they can get. Removing ESA protections for imperiled foreign wildlife is nothing more than an accommodation of the Walter Palmers of the world, and sends a message that exploiting rare and endangered animals is acceptable as long as they are not native to our country.

The Humane Society Legislative Fund strongly opposes H.R. 2603, and we urge the House of Representatives to do so too.

Sincerely,

TRACIE LETTERMAN,  
*Vice President, Federal Affairs.*

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UNION OF CONCERNED SCIENTISTS

July 18, 2017

Dear Representative:

This Wednesday, the House Committee on Natural Resources is holding a legislative hearing on several bills, including H.R. 424, H.R. 717, and H.R. 1274. Together, these legislative proposals threaten the important role of science in implementing the Endangered Species Act and allow for politics to intrude into decisions about which species need protection. The Union of Concerned Scientists, representing more than 500,000 members and supporters across the country, urges you to oppose these bills as they are intended to undermine our nation's most effective science-based laws for protecting imperiled species on the brink of extinction.

H.R. 424, the so-called Gray Wolf State Management Act, arbitrarily blocks federal Endangered Species Act protections for gray wolves in the Great Lakes states and Wyoming. The misguided bill would ignore the Endangered Species Act's science-based decision-making process and remove existing protections for gray wolves in the Midwest. Particularly egregious is the provision that would prohibit any judicial review of Congress's decision to remove science-based protections for gray wolves, eliminating any opportunity for the scientific community and the public to weigh in in the future. Legislative delisting measures like this only undermine scientific determinations that underpin the success of the Endangered Species Act and set a dangerous precedent for other vulnerable species.

H.R. 717, the misleadingly named Listing Reform Act, allows decision-makers to put economic impacts, which can easily be tampered with, above best available scientific evidence. The decision to protect a threatened species would be overruled by economic considerations directly contrary to the goal of the act. The legislation goes one step farther by preventing the Department of Interior and the Department of Commerce from reconsidering the decision to not protect threatened wildlife unless there is new analysis showing that the species can be protected without having any of the aforementioned economic impacts.

H.R. 1274, the deceptively named State, Tribal, and Local Species Transparency and Recovery Act, would undermine the Endangered Species Act's science-based determination process by prioritizing any information provided by states, tribes, or counties to constitute "best available science" regardless of the scientific merit of that information. However, the Endangered Species Act already requires federal cooperation with state wildlife managers and local officials. In addition, decisions to list or delist a species are already required to use the best available science, which of course can include state, tribal, and local scientific studies when they are conducted in accordance with well-established scientific standards. Best available science is not something that can be determined based on region or state borders. It is a culmination of the efforts undertaken by scientists and wildlife experts at the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, where they conduct studies, gather data and other information from the scientific community and the public, including collaboration with state, local, and tribal governments and industry, and then make a determination based on the best available science.

In addition to these three bills, we also stand in solidarity with our partner organizations in opposition to H.R. 2603 and H.R. 3131. Combined with these three anti-science bills, both of these proposals attempt to substitute politics for scientific judgment and make it harder for the public to engage in wildlife stewardship. **We urge you to oppose all five of these ill-informed pieces of legislation that undermine our nation's most effective science-based conservation law, the Endangered Species Act.**

Sincerely,

ANDREW A. ROSENBERG, PH.D.,  
*Director, Center for Science and Democracy.*

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[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE  
COMMITTEE'S OFFICIAL FILES]

**Rep. Gohmert Submission**

—Letter addressed to Vice-Chairman Gohmert from Phil Goss, President of the United States Association of Reptile Keepers dated July 10, 2017.

**Rep. Peterson Submissions**

- Letter addressed to Representative Peterson from Thomas O. Melius, Regional Director at the U.S. Fish and Wildlife Service dated January 30, 2015.
- Survey Description and Figures of Wolf Populations conducted by the Minnesota Department of Natural Resources dated July 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva from Ken Hamilton, Executive Vice President of the Wyoming Farm Bureau Federation dated July 17, 2017.

**Rep. Grijalva Submissions**

- Letter from Alaska Wilderness League, American Rivers, Animal Welfare Institute, Born Free USA, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, Endangered Species Coalition, Howling For Wolves, Humane Society Legislative Fund, International Fund for Animal Welfare, League of Conservation Voters, National Parks Conservation Association, Natural Resources Defense Council, Oceana, Save Animals Facing Extinction, Sierra Club, WildEarth Guardians, and Wildlands Network dated July 18, 2017.
- Testimony of Kate Dylewsky, Senior Policy Advisor for the Animal Welfare Institute dated July 19, 2017.

**Rep. Tipton Submission**

- Letter from Bonnie Petersen, Executive Director of the Associated Governments of Northwest Colorado to Secretary Ryan Zinke, Department of the Interior dated July 7, 2017.