



STATEMENT OF

THE HONORABLE GORDON CRUICKSHANK  
COMMISSIONER, CHAIR  
VALLEY COUNTY, IDAHO

ON BEHALF OF

THE NATIONAL ASSOCIATION OF COUNTIES

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

MAY 6, 2015

Chairman Inhofe, Ranking Member Boxer and distinguished members of the Committee, thank you for holding today's hearing on the impacts of the Endangered Species Act (ESA) and for inviting me to be here today on behalf of the National Association of Counties (NACo) to share with you why the ESA matters to counties.

My name is Gordon Cruickshank, Chairman of the Valley County Board of Commissioners. Valley County is located in central Idaho. The county seat is in Cascade, which is located approximately 80 miles north of our state capital, Boise. Our county has a population of 9,862 residents and – according to a recent analysis of U.S. Fish and Wildlife Service data by the National Association of Counties – three species whose status under the ESA imposes additional regulatory requirements on our county.

Prior to my service as a county commissioner, I was the Valley County Road Superintendent for ten years. I have seen firsthand the impacts of the ESA on my county and state. Further, through my involvement in the NACo Transportation Steering Committee and as the incoming president of the Western Interstate Region of NACo, I have heard from my colleagues about the impacts ESA has had on counties across the country.

Counties across the country are committed to protecting the environment. Since counties are an extension of state government, many of their duties are mandated by the state. Although county responsibilities differ widely between states, most states give their counties significant authority to enact environmental safeguards. For example, counties enact zoning and other land use ordinances to safeguard valuable natural resources, establish rules on illicit water discharges and fertilizer ordinances and enact codes to promote green building and infrastructure development.

The ESA was enacted in 1973 with the promise that our nation could do a better job of protecting and conserving its resident species and the ecosystems that support them. Today, over forty years later, on behalf of the nation's 3,069 counties, I bring that same message to this Committee – we can, and must, do better. Our nation has learned many lessons over the past four decades about what can be done to protect endangered and threatened species and it is time to update and improve the ESA to reflect those lessons.

NACo has identified three key elements that should be considered as Congress debates legislation to update and improve the ESA:

- 1) **ESA decisions must consider socioeconomic impacts as well as species impacts**
- 2) **The federal government must work to reduce the local costs of ESA compliance**
- 3) **Counties should be included as decision makers in conservation and litigation**

## **ESA Decisions Must Consider Socioeconomic Impacts**

First, species management and conservation decisions under the ESA must consider the economic impacts on local economies and the costs to local governments.

Counties across the United States recognize the importance of the ESA as a safeguard for conserving our nation's wildlife, fish and plants. However, the requirements of the ESA often result in socioeconomic impacts that are shouldered by local governments and their residents. The economic impacts of the ESA on counties and local governments must be considered alongside the ESA's benefits for a species.

Like many counties across the United States that are struggling to recover from the recent economic crisis, Valley County has taken a proactive approach to promoting economic development and job creation. Our county has a rich mining heritage and was recently identified as the potential site of a mine that would produce gold, silver and tungsten, a strategic mineral. If completed, it could be the 4<sup>th</sup> largest mining operation in the United States. Early economic analysis shows the mine could create over 400 jobs during its construction and operation, support an additional 2.5 indirect jobs per each direct job created and provide \$20 million in annual wages.

However, concerns over mine impacts on listed salmon populations and threats of litigation have slowed approval of the project and the hundreds of jobs that could come with it.

Valley County's ability to promote economic activity through outdoor recreation has also been impacted by the ESA. Valley County offers an unlimited variety of summer and winter recreation opportunities such as hunting, fishing, mountain biking and cross-country skiing. In fact, outdoor recreation in Idaho contributes over \$6 billion in direct consumer spending and supports 77,000 jobs statewide. However, concerns over sedimentation caused by the use of forest roads and trails and the sediment's potential impacts on listed fish species within our county have resulted in the closure of many of the back country roads that sportsmen and recreationalists rely on. In the winter, access to motorized and non-motorized recreation alike has been curtailed due to concerns over how outdoor recreation could impact local lynx and wolverine populations. Access to these routes is so important to our local economy that Valley County has filed suit to re-open the historic routes. Limiting Valley County's access to outdoor recreation and our natural resources is the same as limiting our ability to grow and thrive.

This story is not unique to Valley County. Many rural counties rely on their natural resources to support economic growth and over 70 percent of all counties in the United States are considered rural. A recent study conducted by Inyo County, California, as part of its comments to the U.S. Fish and Wildlife Service on the proposed listing and designation of critical habitat

for the Mountain Yellow-Legged Frog illustrated the far reaching economic impacts that actions under the ESA can have on counties. Inyo County's study found that the designation of critical habitat within their county could have an economic impact on recreational activities as high as \$17 million annually and could detrimentally impact up to 40 percent of businesses in the county. In addition, restrictions on grazing activities would result in another \$6.9 million in lost economic activity within the county.

ESA requirements have a considerable economic impact on county governments and their residents. When faced with management decisions under the ESA, many counties perform their own socioeconomic studies in order to fully understand the impacts on their communities. Although socioeconomic studies are conducted at considerable local taxpayer expense, the U.S. Fish and Wildlife Service is not required to consider these studies as part of their decision making process. **Counties believe economic impacts must absolutely be considered by federal agencies as part of the ESA decision making process, taking into account the best available scientific and socioeconomic information available on impacts to communities as well as species.**

### **The Federal Government Must Work to Reduce the Local Costs of ESA Compliance**

Second, the federal government must recognize and reduce the costs of ESA compliance to local governments. When asked to share their experiences, county transportation officials from across the country told much the same story – permitting requirements under the ESA and protracted review times by the U.S. Fish and Wildlife Service and other federal regulators increase project costs and delayed project delivery.

Counties own and maintain nearly 40 percent of all public bridges and 45 percent of all public roads nationwide. Restrictions under the ESA increase costs and delay completion of the critical infrastructure built and maintained by counties. In general, for every year a project is delayed its final construction cost increases 10 percent, not including regulatory compliance costs. If the goals of the ESA are indeed a national priority, the burden of meeting those goals rests with the federal government.

In Ottawa County, Oklahoma, the Stepps Ford bridge project was let to contract having after receiving the necessary environmental permits from federal regulators. However, as the project was underway, construction was halted by the U.S. Fish and Wildlife Service after it decided to begin a reconsideration of the project's impact on the Neosho Madtom, a three-inch catfish that is listed as threatened under the ESA. While the U.S. Fish and Wildlife Service reinvestigated, construction sat idle for over 170 days and the county was still left to pay over \$270,000 in contractor costs for the down time.

In Hillsdale County, Michigan, to ensure ESA compliance for a bridge replacement, the project was delayed by more than one year and additional compliance and construction costs were placed on Hillsdale County taxpayers while the U.S. Fish and Wildlife Service reviewed findings and worked to determine whether or not a listed species of mussels was present.

Subsequently, the county hired a biologist at considerable expense to relocate the population of mussels within the project site to another location in the stream. At another site within Hillsdale County, the permit for a bridge replacement project was refused due to the presence of the Northern Copperbelly Water Snake around the project site. Today, the portion of roadway where the bridge is located has been officially abandoned by the county and county residents must travel out of their way to find another stream crossing.

In other parts of the United States, new requirements designed to protect populations of the Northern Long-Eared Bat are already having far reaching impacts on county infrastructure. Although the U.S. Fish and Wildlife Service concedes that the disease known as white-nose syndrome is the primary stressor on Northern Long-Eared Bat populations, the threat remains of additional requirements on counties imposed by ESA to protect the bats.

Recently, Beltrami County, in northern Minnesota, was informed by the Army Corps of Engineers that a planned infrastructure reconstruction project could be delayed due to potential impacts on bat populations. Clearing trees is a necessary component of the project. However, according to guidance issued by the U.S. Fish and Wildlife Service, clearing trees may not be allowed between April 1 and September 30, nearly the entirety of the region's limited construction season. The result could be a more than one year delay in the project's delivery date, with the increased costs paid for by county taxpayers.

For those like myself who must balance a county budget, every dollar spent on regulatory compliance or wasted on project delays takes away from our ability to fund other critical county services like law enforcement, firefighting and public health services. Counties will implement conservation measures and take the time to conduct the necessary reviews, but with county budgets already stretched thin by years of economic recession, it is simply unjust to expect all the costs to be borne by our local taxpayers.

### **Counties Should Be Decision Makers in Conservation and Litigation**

Third, state and county governments must be treated as cooperating agencies with full rights of coordination and consultation with the appropriate federal agencies to determine when and how to list species, designate critical habitat and plan and manage for species recovery and de-listing. Cooperation and engagement must include decisions made in settling ESA litigation.

It is clear to see that the ESA has a significant impact on county governments and communities. Counties across the United States have sought to engage with federal decision makers to find solutions that promote species conservation and limit the impacts of an endangered species listing. Local governments have a vested interest in working with the federal government to find positive solutions for species conservation and should be treated as cooperating agencies and partners in ESA decision making.

The success of a locally driven collaborative approach that includes counties as cooperating partners in species conservation has been proven time and time again. Most recently, on April 21, 2015, the Secretary of the U.S. Department of the Interior, Sally Jewell, announced that the Bi-State Distinct Population Segment of Greater Sage-grouse will not be listed as threatened. This outcome showcases that, when local governments and federal agencies work together, solutions can be found.

A listing of the Bi-State Sage-grouse would have impacted nearly 82 percent of Mono County, California's land area. As a result, Mono County took a leadership role in achieving species conservation and worked to ensure that new regulatory burdens were not imposed on private land owners on the eastside of the Sierra Nevada.

As part of the collaborative process, Mono County worked with relevant federal and state agencies in California and Nevada to assist in Bi-State Sage-grouse population monitoring, provide technical support to local landowners to help mitigate the impacts of land use on Bi-State Sage-grouse habitat, make certain that best practices for conservation were being implemented on the landscape and secure necessary resources for conservation work in the region. The county also hosted outreach and education forums to ensure that community members and land owners were well informed on all aspects of the Bi-State Sage-grouse's status under the ESA, the impacts a critical habitat designation would have on private and public land use and how individuals could help contribute to species conservation.

The actions in Mono County that led to Secretary Jewell's announcement that the Bi-State Sage-grouse would not be listed could not have been accomplished alone by any one agency. Although biological expertise may rest largely with state and federal agencies, partnering with local government provides critical perspective on local land use activities and on the economic and environmental impacts of ESA decisions.

County government is among the closest forms of government to the people. Partnering with counties provides federal regulators with the credibility that is necessary to bring together broad cross sections of stakeholders and community members to implement local conservation efforts from the grassroots, rather than by federal mandate.

If the success of locally driven conservation efforts were limited only to one region or one species, I would not be sitting here today. However, it has been shown again and again that locally driven conservation bringing stakeholders together with agency partners produces results. In Washington State, the Upper Columbia Salmon Recovery Board, a collaboration between Chelan, Douglas and Okanogan Counties and the Yakima and Colville Tribes, has brought together 67 partners and 150 land owners to help protect and restore more than 3,400 acres of salmon habitat. County engagement supporting strong landowner participation has been key to the collaborative's success. What started as collaboration to improve the waterways that salmon call home has grown into a landscape level initiative that has taken on the additional challenge of improving local forest health. This undertaking will not only improve water quality and salmon habitat but also reduce the risk of catastrophic wildfire and support economic activity and jobs on the region's forests.

Collaborative efforts like those I just mentioned require a significant commitment of county time and resources to be successful. Counties want to know that if they invest their taxpayers' time and money into leading local conservation efforts those investments will be upheld by their federal agency partners.

In recent years, costly litigation has been a common theme in dealing with ESA listings. Simply put, litigation is a deterrent to local collaboration. Counties want to partner with federal agencies and other stakeholders in making ESA decisions. However, many are stopped short because the partnership does not extend to the settlement of ESA lawsuits. Locally driven conservation must be given the time it needs to work and those engaged in the collaborative process must be confident that their efforts will be defended in court and not overturned as part of a settlement deal to appease litigants. Without a seat at the table in settling ESA litigation, many counties lack the certainty they owe their residents before spending precious taxpayer funds to take a lead in local conservation efforts.

Ultimately NACo believes that socioeconomic values and environmental values must be in balance. Counties work every day to protect and preserve their natural resources and environment and promote their local economies. We must endeavor to achieve a policy that results in a high degree of environmental protection and preserves and enhances community economic sustainability without unduly shifting the costs of compliance to local taxpayers. County officials and their constituents are keenly aware of the historical, economic and aesthetic values of their local environment and are certain of the need to provide a sustainable future to ensure the economic viability of their communities. We look forward to being your partners "on the ground" as we work with you toward these common goals.