

**STATEMENT
OF
DR. ROBERT P. DAVISON, WILDLIFE MANAGEMENT INSTITUTE
ON THE
ROLES OF STATES, TRIBES AND LOCAL GOVERNMENTS UNDER THE
ENDANGERED SPECIES ACT
BEFORE
THE SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WETLANDS
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE

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Mr. Chairman, Members of the Subcommittee, I am Robert P. Davison, Field Representative in the Northwest office of the Wildlife Management Institute (WMI), Corvallis, Oregon. WMI was established in 1911 and is staffed by professional wildlife scientists and managers. Its purpose is to promote the restoration and improved management of wildlife in North America. I appreciate this opportunity to provide the views of WMI on the role of States, Tribes, and local governments in implementation of the Endangered Species Act (ESA).

In addition, as the Chair of The Wildlife Society's Technical Review Committee on the ESA, I will present those portions of the Committee's report, "*Practical Solutions To Improve The Effectiveness Of The Endangered Species Act For Wildlife Conservation*," that address the issues before the Subcommittee today. The Wildlife Society is an international, non-profit scientific and educational organization serving and representing wildlife professionals in all areas of wildlife conservation and resource management. The ESA Technical Review Committee was appointed by the President of The Wildlife Society to "identify problems limiting the successful implementation of the Endangered Species Act and recommend practical solutions for improving its effectiveness for wildlife conservation." Unlike other Wildlife Society technical reviews of scientific literature, the committee was charged specifically with identifying policy problems and potential solutions for the following aspects of the ESA: 1) listing, 2) critical habitat designation, 3) conservation on private land, 4) involving State fish and wildlife agencies, 5) species recovery, 6) interagency section 7 consultation, 7) consideration of distinct population segments, and 8) ensuring sound decisions. The role of States and Tribes is addressed in each of these aspects of the ESA. The technical review paper presents the views of the appointed committee members, but not necessarily the views of their employers or The Wildlife Society. If the Society decides to develop a position statement based on the review paper, a preliminary version of that statement will be published for comment by Society members. Following the comment period, revision, and Council's approval, the statements are published as official positions of The Wildlife Society.

SECTION 6 COOPERATIVE AGREEMENTS

Under the ESA, States and the U.S. Fish and Wildlife Service and NOAA-Fisheries (Services) share jurisdictional authority for listed species. When the ESA was passed in 1973, Congress stated, "the successful development of an endangered species program will ultimately depend upon a good working arrangement between the Federal agencies, which have broad

policy perspective and authority, and the State agencies, which have the physical facilities and the personnel to see that State and Federal endangered species policies are properly executed.” Section 6 requires the Services to cooperate to the maximum extent practicable with the States in carrying out the program authorized by the ESA.

Cooperative agreements between the Services and the States under section 6 of the ESA are the means by which the Services certify that States have established and maintain adequate and active programs for the conservation of listed species. Currently, States and Territories have entered into 89 section 6(c) cooperative agreements with the Interior Department. Eight States and two Territories have entered into cooperative agreements with the Commerce Department that encompass 15 listed species under the jurisdiction of NOAA Fisheries. All States and six Territories have at least one cooperative agreement for some species of fish and wildlife or plants. Many States have multiple agreements. The State of Oregon, for example, has three cooperative agreements that cover vertebrate fish and wildlife, plants, and invertebrate species. For those States that have entered into cooperative agreements, the grant program established under section 6 provides funds to State fish and wildlife agencies to cooperate in efforts to maintain and recover listed species and to monitor the status of candidate species and recently recovered, delisted species.

Issues of Concern

1. Implementation of the ESA would be improved by greater partnerships with State fish and wildlife agencies in carrying out the ESA.
2. State fish and wildlife agencies are not being provided adequate and stable funding from the section 6 Cooperative Endangered Species Conservation Fund to fulfill State roles in the conservation of endangered and threatened species. Eighteen years ago, the Senate Environment and Public Works Committee expressed the concern that “current Federal/State cooperative efforts to protect endangered species also are inadequate and are in danger of disintegrating altogether.” The Committee noted that the amount of money appropriated in fiscal year 1988 for matching grants to States under section 6 was roughly the same as it was in 1977, yet there were four times as many cooperative agreements in 1987 as there were a decade earlier. Matters only have gotten worse. By the start of fiscal year 2006, there are 1,264 listed U.S. species—more than 6 times the 194 U.S. species listed in 1977—yet the \$9.9 million appropriated in state grants under section 6 for this coming fiscal year has only somewhat more than one-third as much buying power as the \$4.3 million provided in 1977.
3. State expertise, data, personnel, and working relationships with others still are not sufficiently utilized in ESA decisions and actions.
4. Too often, too little is done too late to make listing unnecessary. To a significant extent, a factor contributing to this problem is that there are insufficient financial incentives and regulatory assurances to facilitate actions by States that would make listing unnecessary.
5. Day-to-day cooperation between the State fish and wildlife agencies and the Services in administration of the ESA continues to be hindered by the Federal Advisory Committee Act (FACA).

Potential Solutions

Funding Options

1. The Administration should request and the Congress should appropriate adequate funding under section 6(i) of the ESA to assist States in building a strong partnership for conservation of candidate, threatened, and endangered species and monitoring of recovered, delisted species.

Administrative or Legislative Options

1. The States, where they have the fiscal resources, expertise, staff, and political support to do so, should play a much greater role in administration of the ESA.
2. State fish and wildlife agencies should have a clearer and more significant role in efforts to prevent species from becoming candidates and in listing decisions, critical habitat designations, development of recovery strategies, and management and recovery of listed species.
3. The section 6 cooperative agreement provisions should be redesigned to function as a true partnership agreement requiring close collaboration and coordination between and among the States and the Services. The section 6 agreement can be the vehicle to identify the respective roles of the States and the Services. It should provide the flexibility to allow States that so choose to assume the lead for prelisting conservation, recovery planning and implementation oversight, administration of safe harbor agreements (SHA) and habitat conservation plans (HCP), and post-delisting monitoring.
4. The section 6 Cooperative Endangered Species Conservation Fund should be restored to its original intended purpose of providing adequate and stable funding to State fish and wildlife agencies to fulfill State responsibilities under the ESA. Grants related to HCP planning assistance and HCP and recovery land acquisitions, which currently are inappropriately utilizing the authorization provided by the Fund, should be authorized separately under section 15 of the ESA.
5. Amounts deposited to the Cooperative Endangered Species Conservation Fund should be made available to the States without further appropriation to make it possible for State fish and wildlife agencies to assume the lead for prelisting conservation, recovery planning and implementation oversight, SHA and HCP administration, and post-delisting monitoring.

A recent agreement between the Arizona Game and Fish Department (AZGFD) and USFWS Region 2, entitled “State Wildlife Agency Participation in Implementing the Endangered Species Act: State of Arizona,” is one example of a new direction for States in ESA administration that has promise if accompanied by sufficient funding support (which can be downloaded from <http://www.fws.gov/arizonaes/Threatened.htm>). The agreement describes the roles and responsibilities of AZGFD and USFWS for candidate species assessments, prelisting recovery activities, petition management, listing (including reclassification), critical habitat designation, special rules for candidate and listed wildlife, five-year status reviews, recovery plan development and implementation, monitoring of de-listed wildlife species, land and water acquisition and management, section 7 consultation, law enforcement, habitat conservation planning, and experimental populations. The AZGFD and USFWS mutually agree that the ESA and section 6(c) cooperative agreement language stating that the Secretary “shall cooperate to the

maximum extent practicable” with the States, “shall be taken to mean that Region 2 of the Service has offered the Department an opportunity to participate in developing and implementing each recommendation formulated and each action undertaken within this Region pursuant to the authorities of the [ESA].” As part of its section 6(c) requirement to maintain an adequate and active program for conservation of endangered and threatened wildlife, the AZGFD agrees to develop “species-specific or ecosystem-specific conservation strategies for all species of wildlife that are listed, proposed for listing, candidates for listing, or which may benefit from proactive efforts to preclude the need for listing pursuant to the Act.” Thus, the agreement between the AZGFD and USFWS brings much greater specificity and sense of partnership to relative Federal and State roles and responsibilities than previously forged section 6(c) cooperative agreements or the 1994 USFWS national policy on the subject. Lack of funding to support the agreement, however, has limited its effectiveness and the likelihood that it will be replicated by other States.

LISTING AND CRITICAL HABITAT DESIGNATION

The ESA’s section 4 requires consideration of efforts by States in making listing or critical habitat determinations. Actual notice of proposals must be given to conservation agencies in affected States. If a final regulation is issued that conflicts with State agency comments, or a regulation is not adopted in response to a State-petitioned action, a written justification must be provided for “failure to adopt regulations consistent with the agency's comments or petition.” These requirements generally were incorporated into regulations in 1984 (50 CFR 424). Some of the current issues concerning listing and critical habitat designation are related to this quite limited role for States under section 4.

Issues of Concern

1. Implementation of the ESA would be improved by greater partnerships with State fish and wildlife agencies in the efforts to prevent the need to list species.
2. Too often, too little is done too late to make listing unnecessary. To a significant extent, a factor contributing to this problem is that there are insufficient financial incentives and regulatory assurances to facilitate actions by States that would make listing unnecessary.
3. The ESA does not require explicitly soliciting information held by States, sharing information with States, or involving States in listing and critical habitat designation decisions. While not required explicitly by the ESA, the Services have a policy to carry out this kind of coordination. In some instances, however, information from State wildlife agencies may not be sufficiently sought, used, or considered in listing decisions.
2. State expertise, data, personnel, and working relationships with others still are not sufficiently utilized in ESA listing and critical habitat decisions and actions.

Potential Solutions

Funding Options

1. Federal funding should be provided to the States to conduct monitoring and evaluation of species at risk (e.g., species on the candidate list, and those on each State’s heritage program list of C1 and C2 species, sensitive species list or the equivalent).

Administrative or Legislative Options

1. State fish and wildlife agencies should have a clearer and more significant role in efforts to prevent species from becoming candidates and in listing decisions, critical habitat designations, development of recovery strategies, and management and recovery of listed species.
2. State fish and wildlife agencies should be more involved early and throughout the listing process, including in down-listing decisions. This involvement will facilitate States providing necessary information and help States formulate management decisions and communicate with the public. Similar efforts should be made with Native American Tribes.
3. Encourage the Services to work with interested State fish and wildlife agencies in development of a memorandum of agreement (MOA) under section 6 of the ESA to provide greater certainty and specificity with regard to coordination and collaboration on activities under section 4 of the ESA. The AZGFD-USFWS agreement may serve as a good template.
4. Encourage the Services to utilize State fish and wildlife agency and Native American Tribal expertise in conducting population status inventories and geographic distribution surveys by contracting with the States or Native American Tribes for data collection, review, and analyses.
5. Involve State fish and wildlife agencies in development of guidance on how to identify, quantify, and map critical habitat, assess the economic and other impacts of designation, and balance the benefits of designating any specific area in comparison to the benefits of not designating.
6. Involve State fish and wildlife agencies in identifying and designating critical habitat.
7. Categorically exempt State fish and wildlife agencies from FACA restrictions so that these agencies are able to participate as equal conservation partners, not as public stakeholders, in freely sharing information and contributing expertise to the listing and critical habitat designation processes. This exemption would help ensure that the Services have the best available information; the States would not have to react to Service proposals at public hearings where it would be a greater advantage to have State and Federal agencies in agreement about resources within their authorities; and the States could help their publics know the reasons and impacts of listing decisions.

RECOVERY

The purpose of the ESA is to prevent species extinctions and then provide measures to help bring species back to the point at which the measures provided by the law are no longer necessary. Recovery of species is one metric by which the success of the ESA may be evaluated, but it must be used with care because halting or reversing declines that in some instances have developed over 200 years requires long periods of time and a strong commitment to fund and implement actions that will lead to recovery. Currently, recovery efforts are inadequate for most, if not for nearly all, listed species. More effective efforts to recover species requires not only increased spending, but also coordinated undertakings by a broad array of landowners, public agencies, and stakeholders. These efforts also require better and user-friendlier incentives to private landowners who often are willing to undertake efforts to protect and recover endangered and threatened species.

Once species have been recovered and delisted, section 4(g) requires the Secretary to “implement a system in cooperation with the States to monitor effectively for not less than five years the status” of those species. The USFWS has addressed this requirement through adoption of species-specific monitoring plans developed in cooperation with States, recovery teams, and public input.

Issues of Concern

1. Recovery is established under the ESA as the responsibility of all agencies, in partnership with the States. In reality, given the importance of nonfederal lands to conservation of listed species, partnerships with Native American Tribes, local governments, NGOs, and private parties also are essential to recovery of many listed species. However, recovery, unlike listing or consultation, has not evolved as a mandatory duty of any party. It is largely a voluntary endeavor driven by enlightened self-interest. As a result, there has been great disparity among species receiving recovery attention, and many species do not have sufficient funding or attention devoted to them to achieve significant recovery progress. (The most recent report to Congress on State and government expenditures for implementing the ESA, covering fiscal year 2002, showed that 50% of the funding was focused on only 17 species [1.3% of all those listed under the ESA]. While general [i.e., non-land acquisition-related] expenditures were \geq \$1 million for 87 species, the median expenditure for all species was only \$14,100.)
2. Recovery plans are needed to establish a roadmap for recovery activities, but the Services have been hard pressed to produce in timely fashion recovery plans that reflect a good understanding of species recovery needs and a reasonable consensus among species experts and affected publics. There is inherent tension between the competing demands for appropriate scientific certainty about threats and the effectiveness of conservation measures, the involvement of stakeholders in the recovery planning process, and rapid production of a recovery plan with reasonable consensus of the recovery team. As a result, recovery plans often take significant time and funding to produce, are not revised and updated as frequently as they should be, and are not sufficiently integrated with other, regional, State, and local efforts.
3. Recovery plan implementation usually involves commitment of staff time or funding, both of which are often in short supply. Much has been accomplished in the last 30 years through altruistic action and cooperation, but the overall need for recovery action far exceeds the level of effort that has been applied to date.
4. Implementation of the ESA would be improved by greater partnerships with State fish and wildlife agencies and Tribes in efforts to recover species.
5. The Services lack comprehensive policy and procedural guidance on how to comply with the statutory requirement to monitor the status of species that have recovered and been removed from the lists of threatened or endangered species. Such guidance needs to be developed in conjunction with State fish and wildlife agencies to ensure that effective post-delisting monitoring plans are produced in timely fashion and in cooperation with the States that will be assuming management responsibility for the species post-delisting.

Potential Solutions

Administrative Options

1. Recovery plans should:
 - i) assess risk and focus on amelioration of threats to species;
 - ii) be developed by teams that are of manageable size and sufficiently diverse so as to include needed expertise and representation of entities responsible for management of the species or its habitats, including State fish and wildlife agencies, Federal land-management agencies, and others essential to recovery implementation; and
 - iii) include provisions for regular monitoring and reporting to make possible evaluation of plan effectiveness.
2. The Service should develop, in cooperation with the States, comprehensive policy, and procedural guidance on preparation of post-delisting monitoring plans.
3. State fish and wildlife agencies and Native American Tribes should be provided with the opportunity to be involved in development, implementation, and monitoring of recovery plans and plan activities.
4. Native American Tribes should participate in the recovery planning process to assist in developing measures and monitoring capable of being adopted in Tribal land-use plans.

SECTION 7 CONSULTATION

Section 7(a)(2) of the ESA reiterates the provisions of section 4 by emphasizing that critical habitat may be designated by the Secretary only “after consultation as appropriated with the affected States,” but otherwise makes no reference to cooperation with States in the interagency consultation process. The section 7 regulations similarly are silent on cooperation with States (50 CFR 402.01-402.48).

Issues of Concern

1. In recent years there have been approximately 70,000 actions/year that have triggered some form of consultation. On average, >95% are resolved through informal consultation procedures, but even informal consultations can take time and involve substantial project modifications. Thirty years after passage of the ESA, and despite the variety of other environmental laws that require consideration of fish and wildlife conservation (e.g., Clean Water Act, FIFRA, National Environmental Policy Act, Federal Power Act, National Forest Management Act, and Federal Land Policy and Management Act), Federal agencies do not often incorporate effective measures to avoid or minimize the impacts of their actions on listed species until “forced to” by a section 7 consultation.
2. There is rarely perfect information available to establish the effects of an action on listed species. Once consultation is initiated, the Services must proceed with issuing a biological opinion based on the best available information, even when that information leaves many relevant questions unanswered. The Services do an admirable job of producing scientifically sound and defensible opinions in the face of such uncertainty. The National Research Council review of the biological opinions issued by the Services for the Klamath Irrigation Project has led some to question the adequacy of the existing consultation process in the face of a high level of uncertainty.

3. The funding and staffing of the Services to carry out their consultation responsibilities have not kept pace with the growth in consultation workload. As a result, Federal agencies and affected third parties are faced with project delays and increased transaction costs. Funding for the BLM, Forest Service, and other agencies has been inadequate to complete consultation and monitoring work.

Potential Solutions

Administrative Options

1. Federal agencies should be required to work with the Services, State fish and wildlife agencies, and other experts from the scientific community to resolve areas of scientific disagreement or uncertainty, to the extent that they can be resolved, during development of the biological assessments, and then to design their action conservatively when faced with scientific uncertainty about project impacts or the adequacy of offsetting measures.
2. In order to produce timely delivery of section 7 products and decisions and to minimize transaction costs, the Services should continue and expand their efforts to work cooperatively with State fish and wildlife agencies during consultations.
3. The Services, in cooperation with State fish and wildlife agencies and other Federal agencies, should develop methodologies to reduce the times required to comply with section 7 for actions involving incidental take that would have low impacts or produce net benefits to listed species.
4. Interagency support should be provided and interagency guidelines established to encourage greater collaborative efforts among State and Federal agency scientists and managers.

CONSERVATION ON PRIVATE LANDS UNDER SECTION 10

Section 10 of the ESA makes no mention of cooperation with States. In particular, both the provisions of the law and the associated regulations provide no explicit role for States in habitat conservation planning. There is a certain irony to this silence given the increasingly large role played by States and local governments in carrying out HCPs and other agreements for listed and candidate species under section 10.

State Involvement in Habitat Conservation Planning

During the 1990s, administration of the ESA extended its reach at a great rate into incidental take activities that previously had received relatively little attention. From 1982 when section 10 of the ESA was amended to authorize HCPs as a means of permitting, minimizing, and mitigating incidental take of listed species caused by nonfederal activities until 1992, only 14 HCPs had been approved. By the end of 2004, however, the USFWS had approved 472 HCPs covering approximately 30 million acres of nonfederal lands and protecting 200 endangered or threatened species. As the number of HCPs has grown, there also has been an increase in the complexity of the plans, the number of covered species, and the size of the areas. In the evolution of habitat conservation planning from a process adopted primarily to address single projects to broad-based, landscape-level planning, the role of States and local governments has become far more prominent. For example, the HCP approved in 2003 for western Riverside County, California resulted from an application by the County of Riverside, Riverside County

Flood Control and Water Conservation District, Riverside County Transportation Commission, Riverside County Parks and Open Space District, Riverside County Waste Department, California Department of Transportation, California Department of Parks and Recreation, and 14 western Riverside County cities. It was developed as both a HCP and a sub regional plan under the State Natural Community Conservation Planning Act (NCCP), which is administered by the California Department of Fish and Game. It covers 146 species and more than 1.2 million acres. In 2002, a HCP Land Acquisition Grant provided \$9 million from the section 6 Cooperative Endangered Species Conservation Fund to acquire key core habitats for the threatened coastal California gnatcatcher and endangered least Bell's vireo and Stephens' kangaroo rat.

As the USFWS greatly expanded the use of HCPs in the last decade, State and local governments increasingly drove their development. Approximately 30 percent of all approved HCPs resulted from applications by local governments or State agencies or both. The statewide HCP developed for the Karner blue butterfly by the Wisconsin Department of Natural Resources (WDNR) provides an interesting model for States to regain primary management responsibility for listed species. The WDNR is responsible for compliance with the conditions of the Federal incidental take permit and HCP implementation. The State HCP and permit serve as an umbrella that provides incidental take authority to 26 other partner entities that have developed individual conservation agreements with the WDNR. Under this arrangement, the resident ESA-listed species remain under the jurisdiction of the State fish and wildlife agency, which is most knowledgeable about the species, its status, and its existence in the State. Unfortunately, this promising approach so far has not been replicated by other States.

State Involvement in Safe Harbor and Candidate Conservation Agreements

State agencies and local governments have played a larger role in the innovative use of authority under section 10 of the ESA to enhance the survival of endangered, threatened and candidate species through use of SHAs and candidate conservation agreements. State wildlife agencies in Georgia, Alabama, Texas, Louisiana, and South Carolina all have received Federal funding through section 6 to develop statewide programmatic SHAs for red-cockaded woodpeckers. The States of Texas, South Carolina, and Georgia entered into early SHAs and received incidental take permits under the HCP authority of section 10(a)(1)(B) to promote recovery of red-cockaded woodpeckers. More recently, States such as Louisiana have entered into these agreements under section 10(a)(1)(A) and received enhancement of survival permits. In either case, the USFWS issues an umbrella permit to the State wildlife agency, as opposed to individual permits to each participating landowner. Once overall baseline responsibilities are identified in the umbrella permits, private landowners, with assistance if necessary by State agencies, are able to fill out a relatively simple evaluation form that documents background information, the baseline, habitat maintenance and enhancement activities, expected net conservation benefits and implementation schedule. Having the State wildlife agency as the delivery system for statewide red-cockaded woodpecker safe harbor programs reportedly has worked very efficiently and has been well received by landowners. The lead State role under SHA umbrella permits is a successful model because it minimizes regulatory agency transaction costs and bureaucratic burdens to landowners. One-third of all approved SHAs are with States or local governments.

In 1999, in conjunction with establishment of SHAs, the USFWS further enlarged the role of section 10(a)(1)(A) of the ESA to enhance the survival of candidate species. Candidate Conservation Agreements with Assurances (CCAAs) offer regulatory assurances as an incentive for private and other nonfederal property owners to implement conservation measures. States more actively participate in section 10 candidate conservation agreements and CCAAs and than they do in SHAs or HCPs, which is not surprising given the primacy of State jurisdiction over most of these un-listed species. To date, eight CCAAs have been approved by the USFWS. Of these, four are agreements with State wildlife or natural resource agency partners. A similarly large State involvement exists in candidate conservation agreements approved by the USFWS without any regulatory assurances under section 10 of the ESA. More than half (61) of these 112 approved agreements are with State agencies. A recent example demonstrating the likely future role of States in candidate species conservation is the CCAA obtained by the Montana Department of Fish, Wildlife and Parks in May 2004. The CCAA is an umbrella style agreement under which voluntary conservation activities will be implemented to benefit Westslope cutthroat trout. In conjunction with the CCAA, a permit has been issued for the future take of the species in conjunction with its recovery in Montana.

Issues of Concern

1. Too many private landowners continue to distrust and fear any application of the ESA to their lands or activities. These private landowners may actively work to ensure that listed or candidate species are not attracted to their lands or that those species already present do not remain. At the very least, they may be unwilling or reluctant to undertake actions that would benefit listed or candidate species.
2. The various landowner incentive programs now available (e.g., financial, regulatory) have not been sufficient to allay fears completely, build trust, and encourage landowners to conserve listed or candidate species.
3. Conservation of listed species on private lands would be improved by greater involvement of State fish and wildlife agencies in carrying out the provisions of section 10 of the ESA concerning HCPs and enhancement of survival permits (SHAs and CCAAs).
4. Implementation of the ESA would be improved by greater partnerships with State fish and wildlife agencies and Tribes in carrying out conservation efforts on private and other nonfederal lands.

Potential Solutions

Administrative Options

1. State and Federal land-management financial and technical assistance should be expanded to assist landowners who undertake actions that contribute to recovery, and Farm Bill conservation programs should be targeted to support landowner actions contributing to recovery of listed species or conservation of species that are candidates for listing.
2. State fish and wildlife agencies and the Services should establish mechanisms that make HCPs, SHAs, and CCAAs more accessible to small landowners.
3. Through expanded use of section 6 agreements and other mechanisms, State fish and wildlife agencies should be allowed and encouraged to assume the lead for administration of SHA, CCAA, and HCP administration.

CONCLUSIONS

The ESA has been successful in achieving its primary goal of preventing extinctions, and the firm statutory duties and strong substantive standards imposed by the current law to prevent extinctions and recover species should be maintained. However, the effectiveness of threatened and endangered species conservation should be increased through improvements to the statute and its funding and implementation. Greater resources and effort need to be committed to the purposes of the ESA, particularly to the recovery of listed species. Federal spending in support of State programs over the history of the ESA has been extremely low and in decline relative to spending for Federal efforts. Support and encouragement of complementary State, Tribal, and private conservation efforts through funding, policies, and statutory provisions are essential to establish and maintain the partnerships that are required to prevent extinctions and recover imperiled species. Existing State and Federal resources should be utilized more efficiently by amending the ESA to lower transaction costs in listing decisions and critical habitat designations. Federal decision-makers should solicit and use the expertise of State fish and wildlife agencies and others in a consistent and open manner. Decisions under the ESA should be transparent, replicable, and based on robust scientific analyses of the best available information.

Although the ESA provides clear direction to Federal agencies to work cooperatively with the States to administer the ESA to the “maximum extent practicable,” States are not included as full partners by Federal agencies. Recent attempts by the USFWS to establish management and cooperative agreements with individual States have met with some success but the great majority of States have but minimal working relationships with the USFWS with respect to threatened or endangered species.

Federal agencies should coordinate with State fish and wildlife agencies to address landscape conservation issues related to candidate, threatened, or endangered species. The increasing number of instances in which States have sought and obtained umbrella-style ESA section 10 permits to effectively assume responsibility for minimizing and mitigating non-Federal incidental take activities and promoting nonfederal habitat conservation are innovations that should receive greater support. In similar fashion, with adequate funding, the innovation of the AZGFD and USFWS agreement regarding State participation in administration of the ESA serves as a possible model for a new type of agreement. Revised, funded agreements could either augment or replace existing section 6(c) cooperative agreements with ones in which State and Federal roles are more clearly delineated and directed toward building a more effective partnership on behalf of imperiled species.

Comprehensive State wildlife conservation strategies and the State wildlife grants are an excellent starting point for cooperative efforts and promise a new era of State involvement in conservation of at-risk species that will continue to shape and enlarge the role of States in administration of the ESA. At a minimum, the resulting increased ability of States to collect, synthesize, and easily retrieve data on species and their habitats will increasingly make them key sources of information and expertise in virtually every ESA decision. Increasingly common efforts by States to work together to address rangewide conservation of at-risk species, such as the efforts in behalf of black-tailed prairie dogs and greater sage-grouse, also portend far greater

State roles in this arena in the future. However, if the Federal government expects State agencies to work cooperatively on these efforts, the Federal government must provide substantial funding for capacity development, operations, and maintenance at the Federal and, most particularly, State agency level.