



WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4699

wgfd.wyo.gov

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TESTIMONY OF JOHN KENNEDY DEPUTY DIRECTOR WYOMING GAME AND FISH DEPARTMENT

BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS *“Examining Funding Needs for Wildlife Conservation, Recovery, and Management”*

Good morning Chairman Barrasso, Ranking Member Carper, and members of the Committee. My name is John Kennedy, and I am the Deputy Director of the Wyoming Game and Fish Department. I appreciate the opportunity to testify today about funding for state wildlife conservation, recovery, and management. I provide this testimony based on 26 years of experience with state wildlife agencies.

I would like to begin by describing the jurisdictional authorities and current funding model for fish and wildlife management. The 50 states have the primary legal authority and management responsibility for a great deal of the country’s fish and wildlife resources. States have specific authority for conservation and management within their borders, including most federal land. The tenth amendment to the United States Constitution, as well as the Public Trust Doctrine, direct that powers not specifically delegated by the Constitution to the Federal Government be delegated to state authority or to the people, including the responsibility to manage most of the nation’s fish and wildlife resources. The United States Congress has the sole authority to preempt a state’s authority for fish and wildlife management, and then only for certain federal actions. An example of this is the Endangered Species Act, which affirms the federal authority given to the federal agency that exists concurrently with the pre-existing authority of the state agency.

State fish and wildlife agencies own, manage, or administer nearly 465 million acres of land and 167 million acres of lakes, reservoirs, wetlands, and riparian corridors. State agencies have a stake in conserving and enhancing all wildlife habitats and, therefore, have also improved wildlife habitat not owned directly by the state agencies. An estimated 57 million additional acres have been improved for the benefit of wildlife through private landowner agreements. Further, state agencies own 192,000 water rights and foster 53,000 formal partnerships to carry out wildlife conservation in the country.

State fish and wildlife agencies employ nearly 50,000 highly-trained and highly-motivated individuals. Collectively, the agencies collectively have nearly 35,000 full-time employees and nearly 14,000 part-time employees. About one-fourth of agency employees are degreed biologists, almost 6,000 of whom have advanced degrees and 741 terminal degrees. In addition, 8,371 fully certified law enforcement officers and 1,752 law enforcement employees from other agencies are part of the conservation workforce.

To carry out the management charge granted by the Constitution, every state, territory, and the District of Columbia have an agency dedicated to manage wildlife resources within its borders. These agencies are predominantly governed by boards, commissions, or political appointees charged with policy decisions and agency oversight. In spite of limited funding, state agencies have garnered considerable expertise in response to the growing need to address at-risk and imperiled species and to carry out management and conservation responsibilities across the country.

The collective annual budget of state wildlife agencies is \$5.63 billion. An estimated 59% (about \$3.3 billion) comes from hunting and fishing-related activities. Since 1937, sportsmen have been the driving force for conservation funding in the country. On average, 60 to 90 percent of state fish and wildlife agency budgets are derived by sportsmen, in addition to countless hours of volunteer time and dollars to national, regional, and local conservation organizations. State conservation and management of game species and the habitats that support them is partially funded through excise taxes on hunting and fishing equipment collected under the federal authority of the Pittman-Robertson and Dingell-Johnson Acts (The Wildlife and Sport Fish Restoration Program), which have been a critical source of wildlife conservation funding in the United States for over 80 years. Additionally, sales of hunting and fishing licenses support conservation efforts at the state level.

THE NORTH AMERICAN MODEL OF WILDLIFE CONSERVATION

In the late 1800s, the nation's wildlife resources were depleting due to unregulated hunting and habitat loss. In order to protect the resource, hunters and anglers advocated for regulations for hunting and measures to protect valuable habitat. These efforts led to the creation of the North American Model of Wildlife Conservation, which has two main areas of focus: 1) fish and wildlife belong to all citizens; and 2) wildlife management for perpetual sustainability. These focus areas encompass seven tenets of conservation: 1) the Public Trust Doctrine, tasking the government with holding wildlife in trust for all citizens; 2) Democratic Rule of Law, which provides the resource to be allocated for use by all citizens; 3) Opportunity For All, which dictates that all citizens in the United States and Canada should have equal opportunity to participate in activities such as hunting and fishing; 4) Commercial Use, which prohibits a commercial market for dead animal parts; 5) Legitimate Use, which dictates guidelines for appropriate use of the resource, such as killing for food, fur, self-defense, protection of property, and other legitimate reasons; 6) Science and Wildlife Policy, which dictates that science is used and credited as critical to comprehensive wildlife management; and 7) International Wildlife Migratory Resources, which recognizes that migratory wildlife and fish do not operate under state's boundaries; therefore, regulations on wildlife conservation must be realistic. The use of these principles dictates the successful management of our nation's fish and wildlife resources.

THE ECONOMIC IMPACT OF HUNTING, FISHING, AND OUTDOOR RECREATION

The economic impact of hunting and fishing in the United States is significant. Hunters and anglers contribute in excess of \$200 billion to the economy each year. This equates to more than \$12 billion of state and local tax revenue, and nearly \$15 billion in federal tax revenue. The industry also supports in excess of 1.5 million jobs.

In Wyoming, the outdoor recreation economy generates 50,000 jobs and \$5.6 billion in consumer spending. In 2016, hunters, anglers, and wildlife watchers spent an estimated \$788 million in the state. Wildlife-related activities account for 9,600 jobs in Wyoming.

FUNDING FOR WILDLIFE CONSERVATION, RECOVERY, AND MANAGEMENT

The Wildlife and Sport Fish Restoration Program

The Wildlife and Sport Fish Restoration Program addresses the challenges of managing wildlife resources with effective, strategic grant programs designed to benefit wildlife while enhancing recreational opportunities across the country. The Pittman-Robertson Act (PR), passed in 1937, and the Dingell-Johnson Act (DJ), passed in 1950, authorize grant programs that provide funding to the states for on-the-ground wildlife and fisheries conservation. The majority of PR funds are spent on the acquisition, development, and operation of wildlife management and public use areas. DJ funds support projects that manage and improve aquatic habitats and fisheries resources, protect coastal wetlands, and provide critical infrastructure for recreational boaters.

The Wildlife and Sport Fish Restoration Program also administers the State Wildlife Grant Program, which supports a strategic national conservation framework through individual State Wildlife Action Plans. These plans are comprehensive strategies designed to maintain the health and diversity of wildlife within a state, including preventing the need for listing additional wildlife species under the Endangered Species Act. State Wildlife Action Plans are required in order to receive funding through the State Wildlife Grant Program.

Hunter and Recreational Shooter Recruitment and Retention

The Hunter Education and Safety Program was created in 1970, when Congress amended the Pittman-Robertson Act to allow a portion of the funding to be used for hunter education and safety programs. In 2000, Congress approved the Enhanced Hunter Education program that directs additional resources to this effort.

The first Hunter Education courses, originally called hunter safety, were designed over 50 years ago with the main purpose of reducing hunting accidents. Every state now has Hunter Education courses, with over 25 million graduates since the programs started. A decrease in hunting accidents of well over 50% displays the effectiveness of these programs. Hunting is statistically safer than almost all other forms of recreation. While the major purpose of Hunter Education programs is still the prevention of hunting and firearm related accidents, more and more emphasis has been placed on improving knowledge about the heritage of hunting. Both the first time and veteran hunter are encouraged to become involved in all matters related to hunting, wildlife, and the environment. Responsible, ethical behavior by hunters and personal involvement in the community are essential to the future of wildlife and the survival of hunting.

Hunter Recruitment, Retention and Reactivation (3RS) is an important issue for anyone concerned about wildlife management, conservation, and the future of our hunting heritage. Over 450 individual R3 (Recruitment, Retention and Reactivation) programs nation-wide have had limited regional success, but haven't sufficiently addressed the overall decline in hunter

numbers. Examples of programs include National Archery in the Schools (NASP), Scholastic Clay Target Program, and Becoming an Outdoors-Woman (BOW). Development and use of partnerships and strategic models must continue to be utilized to halt and reverse the declining trend in hunting participation.

Partners for Fish and Wildlife Program

The Partners for Fish and Wildlife Act authorizes the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program (Program). Field biologists work one-on-one with private landowners and partners to plan, implement, and monitor wildlife conservation activities. Working together with more than 45,000 landowners and 3,000 conservation partners, the Program has successfully restored over 1,000,000 acres of wetland habitat, 3,000,000 acres of upland habitat, and 11,000 miles of streams.

The North American Wetlands Conservation Act

The North American Wetlands Conservation Act (NAWCA) provides critical funding to support the North American Waterfowl Management Plan. Through its implementing bodies, the joint ventures, this source of funding has been instrumental in efforts to develop and implement effective voluntary and incentive-based wetland conservation programs. Nationwide, the NAWCA supports wetland habitat conservation which has proven to be vital for migratory birds and other wildlife. Also noteworthy, NAWCA-funded conservation and restoration projects directly support thousands of jobs; supporting landowners, contractors, biologists, engineers, manufacturers, and suppliers. In addition, wetland habitats create opportunities for recreational activities such as hunting, fishing, wildlife watching, and photography, which generate billions of dollars in the U.S. economy every year. Lastly, wetlands absorb water from floods and provide a variety of natural functions resulting in clean, plentiful water supplies.

The Land and Water Conservation Fund

Congress established the Land and Water Conservation Fund (the Fund) in 1964 with the intent to protect and conserve land and water resources, as well as provide quality recreation opportunities across the country. The Fund is supported by offshore oil and gas drilling, through royalties in excess of \$900 million annually. Monies from the Fund support national parks, land around rivers and lakes, national forests, and national wildlife refuges. In addition, grants are matched on a state level for local parks and recreation projects. The Fund is one of the most important conservation and recreation programs in the country, responsible for conserving parks, wildlife refuges, and recreation areas at the federal, state and local levels. For 50 years, it has provided critical funding for land and water conservation projects, recreational construction, and activities and the continued historic preservation of our nation's iconic landmarks.

The Endangered Species Act

With the passage of the Endangered Species Act in 1973, the nation began a concerted effort to prevent species of all types from becoming extinct. However, despite the recovery of certain wildlife species, limited funding has hampered overall recovery efforts. Researchers estimate that total spending over the past 15 years has covered only about one-third of species recovery needs. Furthermore, the amounts spent on recovery of individual species vary a great deal. Just five percent of listed species receive more than 80 percent of recovery funding, while 80 percent of listed species receive just five percent of the funding.

While the ESA has contributed to the recovery and prevention from extinction for many species, it has become a major disincentive for many state-led efforts. Many re-listing decisions are made by judges and not based on science and whether or not a species has been recovered, but rather on technicalities in federal rule making. Until states are given some type of grace period to prove their capability to maintain recovery of delisted species without fear of an immediate re-listing by a federal judge, the incentive for states to invest their limited funding in recovery efforts will likely decline. Citizen support for the ESA is declining and many are frustrated by a process that clearly needs overhauling.

THE NEED FOR ADDITIONAL FUNDING FOR WILDLIFE CONSERVATION

North America's fish and wildlife conservation model and its conservation-based delivery system is unparalleled. The fundamental tenets of this model and associated contributions of state agencies, combined with the collective efforts of diverse partners that state agencies continue to maintain and develop, are foundational and have contributed significantly to its effectiveness. To continue their important contribution to conservation, state agencies will need to shore up the logistical and financial underpinnings of the wildlife conservation model. The state wildlife agencies need additional permanent and dedicated funding for wildlife conservation in North America.

Recovering America's Wildlife Act

The need for new and broader funding is reflected in recent recommendations made by the Association of Fish and Wildlife Agencies' Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources. The first recommendation is to secure an additional \$1.3 billion for the Wildlife Conservation Restoration Program with existing revenue from the development of energy and mineral resources on federal lands. The second is to establish a forum that would examine the impact of societal changes on the relevance of fish and wildlife conservation and make recommendations on how to transform agencies to engage and serve broader constituencies. The first recommendation broadens participation in wildlife conservation funding. The second aims to attract a broader audience outside of our traditional customers.

Species management and recovery require dedicated funding to afford states the ability to craft and implement a multiyear species conservation plan with the capacity and expertise needed to assess the status of wildlife populations, determine causes of decline, ameliorate threats and risks

affecting the species and its habitats, restore and enhance those habitats and populations, monitor responses to management actions, and adjust course as necessary to achieve success.

Recovering America's Wildlife Act represents a 21st-century funding model that will facilitate the states' abilities to address problems with wildlife species of greatest conservation need before federal listing is needed and expedite recovery efforts for those species already listed. States also could use these funds on wildlife conservation education and to manage, control, and prevent invasive species and nuisance species as well as other threats to state species of greatest conservation need. Clearly, this additional funding would allow state wildlife agencies to do the proactive, incentive-based wildlife conservation work of which we have a proven track record of success.

States could use these funds to effectively implement their State Wildlife Action Plans (focus on species of greatest conservation need). Each species that is precluded from listing under the Endangered Species Act will save millions of dollars incurred by the state and federal agencies that have to compile and evaluate data and federal notices for petitions, listing determinations, critical habitat designations, consultations, and permits. More funding will be available to create and implement conservation tools such as Safe Harbor Agreements and Habitat Conservation Plans. This funding will allow the states to deploy proactive, voluntary conservation actions that will preclude the need to list species under the ESA and, in the long-term, reduce federal expenditures under the ESA while increasing our ability to recover species before it is more biologically and ecologically difficult.

The Recovering America's Wildlife Act will establish a proactive funding model for the conservation of fish and wildlife across the country. This funding could be leveraged with state dollars and utilized by existing and new partnerships to maintain and enhance wildlife habitat on the ground. Clearly, this new funding model will facilitate the states' abilities to restore and recover federally listed threatened and endangered species while also preventing other species from being listed.

The Wyoming Game and Fish Department respectfully asks this Committee and other members of Congress to support permanent and dedicated funding for the Recovering America's Wildlife Act. States have a proven track record of recovering species with dedicated funding as evidenced by over 80 years of success through the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act. We can build upon states' current efforts to conserve the full array of diverse fish and wildlife if afforded the opportunity.

Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act of 2017

The Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act proposes to modernize and update the fund to meet the needs and expectations of hunters, anglers, and other conservationists. By updating the Pittman-Robertson Wildlife Restoration Act of 1937, which uses the proceeds of a federal excise tax on firearms, ammunition, and archery equipment to fund grants for wildlife conservation projects to state wildlife agencies, this legislation will ensure continued funding for wildlife conservation efforts that benefit all Americans.

The increasing urbanization and suburbanization of our nation's population has made it more difficult for the American public to participate in hunting and recreational target shooting. It is now more important than ever that we address the changing dynamic to meet the needs of the modern sportsperson. Without increasing taxes or existing user fees, this legislation will ensure user-pay funding of wildlife conservation for future generations. Specifically, the bill clarifies that a purpose of the fund is to extend assistance to the states for the promotion of hunting and recreational target shooting, and allows state expenditures to include spending for the outreach, communication, and promotion of hunting and recreational target shooting. To better communicate with today's sportsmen, the legislation would allow states to use modern communication methods to inform and educate hunters and recreational target shooters like state agencies currently do for fishing and boating. Our constituents expect us to use modern methods to communicate with them, but much is currently prohibited under current law and considered "public relations." Moreover, the ability to communicate with our resident and non-resident hunters is imperative to more proactively prevent and slow the spread of Chronic Wasting Disease (CWD) in Wyoming and across the nation. Many hunters still do not know about CWD, if it is present where they are hunting, precautions they should take if it is, how CWD is transmitted, or other important aspects of the disease. States must have the ability to communicate better with the hunting public and collectively do what we can to control CWD. Finally, the bill would expand the Multistate Conservation Grant Program to include \$5 million in recreational target shooter recruitment grants that promote state implementation of a national hunting and shooting sports recruitment program.

Reauthorization Funding for the Endangered Species Act

The Wyoming Game and Fish Department supports the ESA but believes it should be modernized to meet today's wildlife conservation challenges. For specific recommendations for modernizing the ESA, the Association of Fish and Wildlife Agencies' *General Principles for Improving Implementation of the Endangered Species Act*, which was approved by all state wildlife agency directors, is included as an attachment to this testimony.

State agencies are proud of their successes with recovering listed species and restoring declining species to sustainable populations so the provisions of the ESA are not necessary. For most state wildlife agencies, it has been a challenge building capacity, funding, and staffing to do this important conservation work. Insufficient funding to federal agencies for recovering a listed species often thrusts an unfunded fiscal burden on state agencies to manage the federal regulatory requirements of a federally-listed species.

The discussion draft of the Endangered Species Act Amendments of 2018 emphasizes elevating the role of states and increasing transparency in the implementation of the ESA. It also prioritizes resources to better meet its conservation goals and provides regulatory certainty to promote conservation and recovery activities. The discussion draft reauthorizes the ESA for the first time since its funding authorization expired in 1992. In terms of addressing ESA funding, the discussion draft requires the U.S. Fish and Wildlife Service to submit annually to Congress a budget for implementation of the work plan, which provides transparency for the financial resources needed to implement it.

More financial resources will be needed by the state and federal agencies to successfully implement the proposed changes in The Endangered Species Act Amendments of 2018 discussion draft.

Reauthorization of the Partners for Fish and Wildlife Program

The state wildlife agencies continue to support reauthorization of the Partners for Fish and Wildlife Program as proposed in the Wildlife Innovation and Longevity Driver (WILD) Act, which passed this Committee and passed the Senate by unanimous consent. This highly successful program is an integral part of our collaborative fish and wildlife conservation efforts with the U.S. Fish and Wildlife Service, and has been one of the cornerstone programs for recovering black-footed ferrets. The program is well-received by private landowners and agricultural producers, is solution-oriented, doesn't remove lands from the county's tax rolls, and cooperatively enhances fish and wildlife habitats for many declining, at-risk, and listed species.

Fish & Wildlife Coordination Amendment in WILD Act

Wyoming thanks the Committee for its efforts to improve state and federal coordination under the Fish and Wildlife Coordination Act. As I testified before, Aquatic Invasive Species (AIS) are a serious problem for all of us and we need to work together to reduce and eliminate any new introductions of AIS and better control and manage those currently within the United States. We welcome the amendment proposed in the WILD Act and look forward to working with this Committee next year to further explore additional ways to improve state-federal coordination under this Act.

Hunting Heritage and Environmental Legacy Preservation for Wildlife Act

The state wildlife agencies support reauthorization of the North American Wetlands Conservation Act as proposed in the Hunting Heritage and Environmental Legacy Preservation (HELP) for Wildlife Act. This is another highly collaborative program that leverages state, federal, private, and nonprofit funds to restore, enhance, and manage wetland habitat for migratory birds and other wildlife. These are the same wetlands we all depend on for clean water, flood attenuation, aquifer recharge, and healthy environments. Further, for each federal dollar, one partner dollar must be matched, but every federal NAWCA dollar is usually tripled by partners at the state and local levels making this a highly efficient program.

National Fish Habitat Conservation Through Partnerships Act

Wyoming supports the National Fish Habitat Conservation Through Partnerships Act and greatly appreciates and benefits from the great collaborative fish habitat work that occurs in Wyoming through the Western Native Trout Joint Venture and the 19 other fish habitat partnerships nationwide. Through partnerships of state agency staff, conservation organizations, and local communities, the program strategically leverages resources and capacities to address fish and fish habitat conservation needs through collaborative restoration, conservation, and habitat

enhancement efforts. The Wyoming Game and Fish Department appreciates the Committee's work on this important piece of legislation and we look forward to its enactment.

Summary – Funding Needs for Wildlife Conservation, Recovery, and Management

New and dedicated funding is needed for state wildlife conservation, recovery, and management. Fish and wildlife conservation began more than a century ago when hunters, anglers, and other conservationists came together to restore decimated game populations, but it has grown to encompass way more than that. The new and dedicated funding opportunities addressed in this testimony, such as the Recovering America's Wildlife Act, are critical to supplement the revenue brought in by hunting and fishing to give states the resources they need to conserve, recover and manage America's fish and wildlife.

Thank you for the opportunity to provide this testimony and to share the state wildlife agencies' perspectives and work to conserve, recover, and manage wildlife.



General Principles for Improving Implementation of the Endangered Species Act

Adopted March 18, 2016

Objective Statement: Improve Endangered Species Act implementation to ensure its future by making it a more effective conservation program for fish and wildlife, and more acceptable to private landowners. This improved implementation would be directed and managed by state and federal fish, wildlife, and natural resource professionals.

Principles for Improvement:

- 1: Enables more effective and consistent conservation and protection of species.
- 2: Ensures fish, wildlife and natural resource professionals make Endangered Species Act decisions.
- 3: Facilitates the opportunity for robust utilization of state fish and wildlife agency concurrent jurisdictional authorities in Endangered Species Act implementation as Congress originally intended.
- 4: Focuses on management actions that will recover species to the point that provisions of the Endangered Species Act are no longer necessary, and the species can be delisted or down-listed.
- 5: The approach is apolitical and politically viable because it has bipartisan support.
- 6: Better incentivizes private landowner participation in application of the Endangered Species Act.

Recommendations for Improvement:

I. Implement Preventive and Restorative Management: improve cooperation between state and federal agencies to preclude the need to list species by addressing species life needs and habitat requirements, more fully recognize and integrate state-led conservation efforts, and improve processes and guidelines for listing decisions. Secure funding sources for these actions.

II. Elevate the Role of State Fish and Wildlife Agencies: increase opportunities for state fish and wildlife agencies to take a more formal and active role and fully participate in Endangered Species Act implementation actions as intended by Congress under Section 6 Cooperative Agreements.

III. Improve the Listing Process: make the best decision within a more realistic timeframe; prioritize species considered for listing; and insure all state fish and wildlife data are utilized and

fully considered in the listing determination whether such data are published or not; and include state agency expertise in the process of interpreting these data and drawing conclusions.

IV. Require the Development of Science-Based Recovery Plans for Listed Species Directed by Recovery Teams: enhance States' role including the opportunity to lead recovery planning and implementation, expedite recovery by supporting state level initiatives and partnerships; and increase flexibility and feasibility for recovery plan applicability.

V. Relocate Critical Habitat Designation to Recovery Plan Development and Create More Flexibility: create more flexibility for the Secretary to exercise discretion to designate or not designate critical habitat, better define the scope, scale and basis for critical habitat designations and include clear guidance on when such designations are needed or required.

VI. Revise Down-listing and De-Listing Processes: increase reliance on and give great weight to recovery plan population and habitat objectives to inform the initiation of the delisting or down-listing process and create more ecological and geographic flexibility for downlisting and delisting valid listable entities, regardless of how they were originally listed; expedite down-listing and de-listing processes to realize conservation successes and reduce unnecessary regulatory burdens.

VII. Restore the Distinction between Threatened and Endangered Species Categories: return to Congressional intent providing greater flexibility to manage these listed species differently; afford state fish and wildlife agencies the opportunity to manage threatened species as Congress intended; and allow take as a possible means of "conservation" in the Act.

VIII. Fully Utilize State Conservation Agreements, Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, Safe Harbor Agreements and Habitat Conservation Plans: provide consistency and guidance on utility.

IX. Provide Certainty and Incentives for Private Landowners: enhance clarity and increase conservation incentive options available; expedite the process for concluding these conservation agreements to enhance certainty to private landowners.

X. Enhance Endangered Species Act Funding: sufficient funding should facilitate successful conservation outcomes, species recovery, and delisting; enhance funding to states and federal agencies for all aspects of Endangered Species Act implementation.

XI. Improve Implementation of 10(j) Experimental Populations to Enhance Species Recovery: provide guidance on when the use of 10(j) experimental populations are appropriate and standardize post delisting monitoring plans.

XII. Science and actual conservation work to recover species should drive Endangered Species Act decision making: devolve the role of litigation and more fully realize Congressional intent for Endangered Species Act implementation.

XIII. Establish more Consistent Implementation Procedures and Processes: improve consistency and timeliness of administrative processes and actions implemented under the Act.

Legislative History of the 1973 ESA Bill On Passage: Excerpts

Senate Consideration and Passage of S.1983, With Amendments, from the Congressional Record, July 24, 1973, pages 342-425

Sen. John Tunney (CA):

“On the other hand, it was well established in the hearing record that most of the States possess much greater wildlife management resources than does the Federal government. Clearly any effort on the part of the Federal government to encourage the restoration of threatened or endangered species would fail without the assistance of the state agencies. This bill is designed to permit and encourage state endangered species programs that are in concert with the purposes of this Act.”

“Subject to the provisions of this Act which provide maximum protection for species on the brink of extinction, States with active endangered species programs are given full discretion to manage threatened species which reside in their boundaries.”

Sen. Ted Stevens (AK):

“Sections 6 and 16 provide for cooperation with the states. They provide the major backbone of the Act. Presently the states have an extensive network of endangered species legislation. Unfortunately, not all states have as yet implemented such programs. This bill will assist those states not yet involved to implement such programs and will, if the states do not, provide for Federal preemption.”

“As Dr. Ralph Mac Mullen, president of the International Association of Game, Fish, and Conservation Commissioners observed, state wildlife agencies employ over 5800 law enforcement officers across the Nation. Formal Endangered Species programs are being implemented in over 30 states.”

“Dr. Mac Mullen further observed that if the Federal government were to take away the right of the states to manage these species and to preempt the states, State Legislatures would not be willing to appropriate the necessary funds to protect endangered species.”

House Committee Report 93-412 (to accompany HR 37)

“The principal areas of discussion during the hearings and markup of legislation centered on the proper role of the state and Federal governments with regard to endangered species programs...”

“Any bill which is designed to deal with the complicated issues involved in the protection of endangered species must do so in light of least two competing considerations: first, protection of endangered species is not a matter that can be handled in the absence of coherent national and international policies... Second however, the States are far better equipped to handle the problems of day to day management and enforcement of laws and regulations than is the Federal government...”

“Regulatory jurisdiction is given to the Federal government under this legislation and if a cooperative agreement is successfully negotiated and signed, to the states as well.”

“Where a cooperative agreement has been put in effect the bill allows concurrent jurisdiction over the species affected in both the state and federal judicial system.”

“In all other respects ... [than adherence to actions specifically permitted or prohibited by the Federal agencies]... the state law is not preempted but is merely subject to the “floor” of regulations under the Act.”

House Consideration and Passage of HR 37 with Amendments:

Cong. James Grover (NY):

“Second, we have adequately protected legitimate state interests, power, and authorities by providing for concurrent Federal/State jurisdiction...”

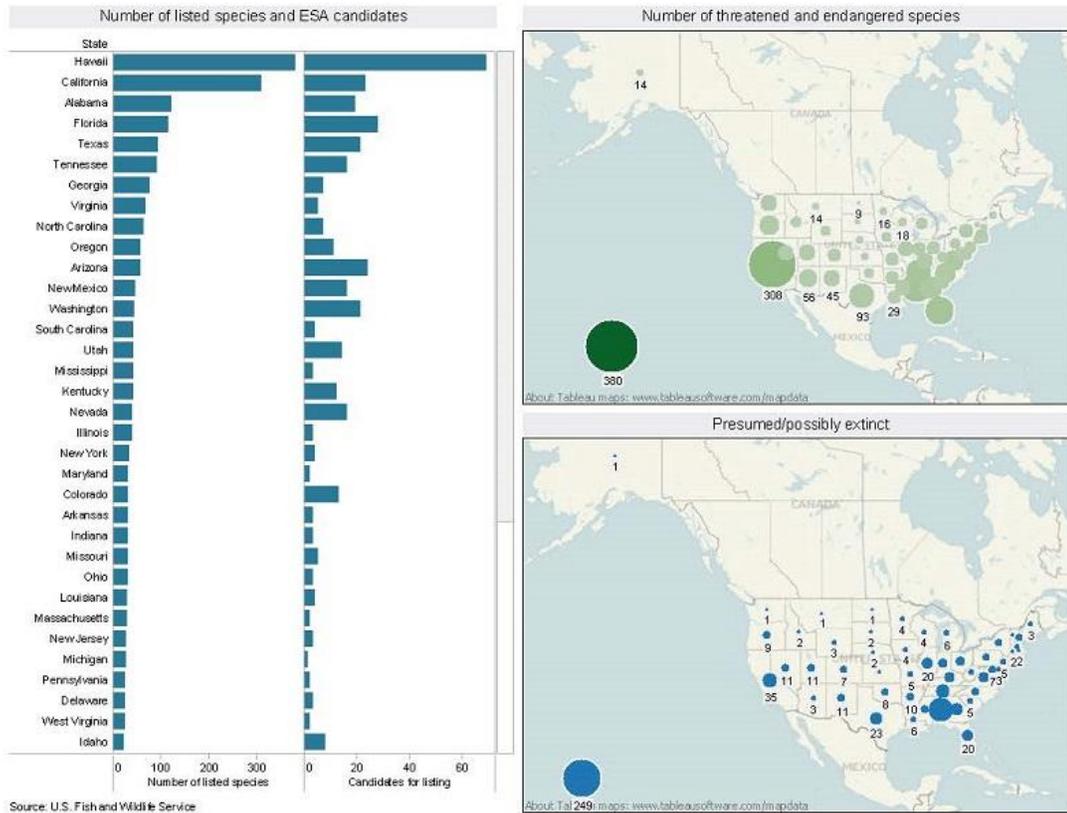
“It is imperative to realize, as the Committee did, that the greater bulk of the enforcement capabilities concerning endangered species lie in the hands of the state fish and game agencies and not the Federal government. It is on a state level that habitat areas will be located, and it is on a state level where this new Federal law will be implemented, subject to overall Federal criteria and guidelines.”

House Conference Report 93-740 (to accompany s. 1983 as reported by the House-Senate Conference Committee)

“As finally approved, the Act will have the effect of giving the states fundamental roles with respect to resident species for a given period of time... The conferees hope that this device will impel the states to develop strong programs to avoid the alternative of federal preemption.”

“It should be noted that the successful development of an endangered species program will ultimately depend on a good working arrangement between the federal agencies, which have

broad policy perspectives and authority, and the state agencies, which have the physical facilities and personnel to see that state and federal endangered species policies are properly executed.”



Source: <http://ecowest.org/biodiversity/endangered-species/>