

**TESTIMONY OF CYNTHIA K. DOHNER, PRESIDENT, CINDY K. DOHNER, LLC
BEFORE THE U. S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC
WORKS ON “FROM YELLOWSTONE’S GRIZZLY BEARS TO THE CHESAPEAKE
BAY’S DELMARVA FOX SQUIRREL – SUCCESSFUL STATE CONSERVATION,
RECOVERY AND MANAGEMENT OF WILDLIFE”**

OCTOBER 10, 2018

Good morning Chairman Barrasso, Ranking Member Carper, and Members of the Committee. I am Cindy Dohner and I currently work in the environmental field as an independent environmental contractor since my retirement last year from the U.S. Fish and Wildlife Service (Service) within the Department of Interior (DOI). I served as the Southeast Regional Director for the Service and provided leadership and oversight for the Service’s species conservation work across 10 southeastern states, Puerto Rico, and the U.S. Virgin Islands. I also served as Department of the Interior's Authorized Official for the Deepwater Horizon Oil Spill Natural Resource Damage Assessment and Restoration, the lead for DOI on the Resources and Ecosystems Sustainability, Tourism Opportunities and Revived Economy of the Gulf Coast (RESTORE) Act Council, and oversaw the activities related to the National Fish and Wildlife Foundation’s Gulf Environmental Benefit Fund, which is part of the restoration effort in the Gulf of Mexico.

I have extensive experience in comprehensive natural resource conservation, where I provide support to Federal Agencies, State Fish and Wildlife Agencies, private landowners, tribes, Nonprofit Organizations, and industry. I also have experience in landscape and watershed conservation, building partnerships, at-risk species conservation, and assisting private landowners solve large scale conservation issues. Additionally I worked for three State Agencies, other Federal agencies (i.e., National Marine Fisheries Service), and in the private sector where I was the regulated community.

Since leaving the Service, I continue to find new ways to advance species conservation and am helping lead a conservation effort referred to as Conservation without Conflict that started last year. This new effort is both an approach and a coalition. Members have diverse goals and values, including economic profit and sustainability, hunting, fishing and other outdoor recreation, conservation, national security, and public service, but all come together around common conservation interests and a sense of good land stewardship. This effort intends to demonstrate to policy-makers, funders, conservation groups, the public that investments in collaborative conservation protect land and the values we ascribe to it. It also allows working lands to work and conserve species at the same time and demonstrates that if we work together we can make a difference in conservation.

Mr. Chairman, I appreciate the opportunity to add my perspective to today’s discussion on the conservation, recovery and management of wildlife that I was involved with during my career with the Service, and the proactive work done by federal and state agencies, private landowners, industry and environmental groups, and the work I continue today.

My role as the Service's Southeast Regional Director

As the Regional Director in the Southeast, I worked hard to balance the conservation of fish and wildlife resources with the needs of the public on the landscape. This nation values land for the wellbeing it provides families, the recreational experiences it affords, the support for our outdoor ways of life, the economics it affords the communities, the ecological benefits it delivers to those same communities, and the wildlife it sustains. Land and wild life unite us and enhance our quality of life; but there is only one landscape that we work in, and there are many competing uses. I know there is a desire to pass these tremendous benefits and the natural outdoor heritage on to successive generations, however, the nation has diverse goals and values that sometimes conflict with that desire. These include ensuring economic profit and sustainability, hunting, fishing and other outdoor recreation, conservation, national security, and public service to name a few. I believe, however, that we can address these challenges and the conflicts if we all work together collaboratively around these common interests and goals and strive to find solutions to ensure good land stewardship and the conservation of fish and wildlife. The work in the Southeast among the various stakeholders, States, private landowners, tribes, industry, nongovernmental organizations (NGOs) and the Service has proven that collaborative conservation is successful.

I love the Service's mission and worked hard to ensure it was met but I also have a variety of experiences that includes working for other federal agencies, state agencies, and industry, where I was the regulated public, which I think provides a unique perspective when addressing challenges. My intent is to do the best that I can for fish and wildlife resources. While growing up, some of the rivers in Pennsylvania caught on fire and DDT was found to be the cause for some of the bird declines. My desire in choosing an environmental field in which to work was to help in any way I could so that my two sons can enjoy the things I so enjoyed growing up, such as playing in the outdoors, scuba diving, hunting and fishing.

I was also committed to making the Endangered Species Act (ESA) work for the American people to accomplish its purpose of conserving at-risk, threatened and endangered species and protecting the ecosystems upon which they depend. I am still committed to that practice today and continue the work and believe the ESA has enough flexibility to conserve and recover species if everyone on the landscape works together in a collaborative effort. Not only do I believe it, but I know it works because of the successes from the Southeast's At Risk Species Conservation effort led by the States and Service: there are more than 185 "wildlife wins," which includes species recovered, down listed, delisted or listed as a threatened species with a 4(d) rule because of the conservation efforts.

In passing the ESA in 1973, Congress acknowledged we were facing a crisis. Since that time, the ESA has conserved hundreds of at-risk species, prevented the extinction of species and promoted the recovery of many, including the Delmarva fox squirrel, brown pelican, bald eagle, American alligator and Louisiana black bear to name a few. This great conservation work has helped achieve Congress's call to preserve the nation's natural resource heritage, and it has happened alongside sustained economic development. The ESA gets activated when conservation measures fail, which is unfortunate. Sometimes it is because of a long term downward trend in habitat destruction over many decades, and other times it may because of a

catastrophic event. Either way the species needs to be afforded the protection of the ESA to ensure its long term survivability. Depending on the situation, it may take as many decades to recovery the species.

As you know, species don't recognize boundaries and to recover a species you need to address the threats across the range of the species as needed. Often, the range of the species goes across numerous state lines or may go across international borders. The Service fulfills that important role under the ESA by ensuring the entire range of the species is considered regardless of the administrative boundaries (e.g., State lines and other countries) within the range of the species, and they help stitch together the conservation actions needed to recover the species. This is particularly important in wide ranging species like recovered bald eagle found throughout the nation and multi-jurisdictional species like the Red Knot that overwinters in the South America.

It is more important now than ever to have an effective, collaborative approach to conserving imperiled species to continue this country's commitment to wild places and wild life. Congress also clearly defined roles for both the federal agencies and the state agencies in the law; and when implemented effectively and collaboratively, there are success for both species already listed under the ESA, or those species at-risk of needing the ESA's protection. The law provides the Secretary of the Interior with flexibility to involve the states in imperiled species conservation and recovery. For example, Section 4(f)(2) of the ESA allows for states to be involved in recovery planning activities as deemed appropriate and is not be subject to the Federal Advisory Committee Act. The states were very involved in conserving and recovering species in the Southeast, including recovery planning, although I think it would be beneficial for the Service to work closely with all States to further define the state's roles under the ESA to reflect the intent of Section 6 of the ESA.

I, and the Service's staff in the Southeast worked closely, and the Service still does, with the State fish and wildlife agencies through the Southeast Association of Fish and Wildlife Agencies (SEAFWA), which includes 15 southeastern states – 5 more than the states that comprised the Service's Southeast Region. I worked hard to remain as neutral as possible in fish and wildlife conservation and brought a common-sense approach to that work. This approach to working helped forge a unique relationship between the Service and its state partners in the Southeast. We worked as closely as possible on issues, always trying to ensure there was "no daylight" between our positions. This didn't mean we agreed all the time because the missions varied, but that we agreed on as many things as we could within the bounds of our respective laws. This working relationship was first forged almost 20 years ago when both the Service and the State of Florida (Florida Fish and Wildlife Conservation Commission – FL FWCC) were sued over manatee recovery issues. We realized at the time that if we worked together on the issues, we were stronger, and we were able to provide more conservation for the species – AND both the State and the Service played very important roles in the ESA challenge. This also ensured we used the best scientific and commercial science to guide our management decisions.

Both the States and the Service have limited resources to recover all the species listed under the ESA, and difficult choices need to be made. For the manatee actions that resulted from the 2 lawsuits, the State and the Service shared resources (e.g., staff and funding) to address the high-priority actions needing to be taken. The FL FWCC acted on those measures (e.g., establishing local boating speed zones) available under their oversight and the state laws; and the Service

acted on measures (e.g., designating manatee sanctuaries) available under their oversight and the federal laws. The manatee was listed in 1967, but it took decades for the species to become imperiled. With some species it takes long to recover them and includes a lot of hard work to stabilize the species population. The manatee is now one of the species that has been downlisted under the ESA, but it took the collective recovery efforts of the State, the Service, the U.S. Army Corps of Engineers (USACE), industry and private landowners to make a difference.

One thing the Service and the states in the southeast agree on is the desire to minimize and reduce the regulatory burdens on landowners. As Regional Director, I was committed to using the flexibilities in the ESA to help landowners work their lands while also conserving imperiled species. This was also a request from the elected officials. We explored as many processes available to streamline the regulatory process, including the use of programmatic agreements, section 7(a)(1) agreements with other federal agencies, and the various incentive tools (e.g., Safe Harbor Agreements, Candidate Conservation Agreements with Assurances, etc.) established under the ESA for private landowners. In some cases, we developed new innovative tools to reduce regulatory burdens. The distinct ESA Section 6 Agreement that was developed between the FL FWCC and the Service is an example of such innovation. When used properly, this agreement streamlined the permitting process by allowing the FL FWCC to issue ESA permits for the Service, resulting in the elimination of duplicate permitting for the same issue. This was a new tool under the ESA and the State of Florida had to change its laws regarding the destruction of habitat to ensure they could meet the ESA requirement of protecting the habitat upon which the species depends.

A Change in Species Conservation and Recovery Efforts

One of the most controversial and challenges issues I dealt with as the Regional Director was the result of the Service's Multi-District Litigation settlement in 2011 and numerous petitions received under the ESA, including a mega-petition for listing 404 species under the ESA. As a result of these actions, the Southeast Region was required to determine the status of more than 450 species under the ESA. There were concerns that if all these species were listed, it could have resulted in more than doubling the number of species listed under the ESA in the southeast and would add significant new regulatory burdens on private landowners. The petitions also reflected serious threats to important ecosystems that we needed to address. As the Regional Director, I knew this was a challenge that would require collaborative conservation to get less burdensome outcomes, so I approached the Southeast Association of Fish and Wildlife Agencies (SEAFWA) Directors to discuss the pending challenge. Needless to say, they were surprised and expressed concern over the number of species that needed to be evaluated and the challenges we faced. However, as a result of our dialogue and deliberations, in 2011 the Service's Southeast Region and the states embarked on the At Risk Species Conservation Strategy.

With sound science as our guide, the Service and the states along with other Federal agencies through the Southeast Natural Resources Group, universities, private landowners, and industry to begin the process of proactively conserving as many species as possible through voluntary actions so that ESA protection was not needed. This included raising awareness, educating people on the challenges and opportunities, increasing surveys and research needed for clarifying the status and needs of the species, and developing new processes and tools to be used in the

effort – all of which is still ongoing. This effort resulted in a lasting change in the way the states and the Service, as well as other entities, are working to conserve fish and wildlife that are not currently federally listed. The effort demonstrates that the ESA can provide an important framework and catalyst for how states and the Service can work to effectively conserve species.

Leadership for this effort has also been shared between the States and the Service, and each has its distinct role. Because of limited staff and funding resources, the State is addressing high-priority actions within their oversight that need to be taken, such as species field surveys by using their Section 6 funding and funds from the State Wildlife Grant Program; and the Service is addressing high-priority actions within their purview, such as Species Status Assessments and ESA rules as needed. Although one or the other of the agencies leads the work at any given point, it is done in a seamless fashion.

If together we can address the need to protect additional plants and animals without listing, landowners and the species benefit. The Service also encourages State, Federal and Private landowners to use voluntary conservation tools that protect private land interests and provide incentives and regulatory certainty for landowners to manage lands and waters in ways that benefit at-risk species. From the landowner perspective, proactive conservation is voluntary and flexible and easier to manage. Fish, wildlife and plants benefit when we focus limited resources where they are most needed. This helps species on a larger, landscape scale. Another benefit is counted in savings to the American taxpayer. In general, it costs less money to protect a species that is beginning to face threats than it does to recover critically endangered species.

The goal of this effort is to ensure, in working with partners, that sufficient conservation measures are in place such that these species would not warrant listing under the ESA. That means we are addressing real threats to the landscape people rely on but in a manner that was developed together. With the States and the Service leading the way and sound science as our guide, the Service and the States, along with other Federal agencies, universities, industries, and private landowners—are prioritizing species and coordinating our resources. Partners are acquiring the best science, documenting conservation activities already taking place, and using voluntary, non-regulatory conservation programs to proactively conserve as many of these species as possible so that listing will not be necessary. The Service also is encouraging State, Federal, and private landowners to use voluntary conservation tools that protect private land interests and provide incentives and regulatory certainty for landowners to manage lands and waters in ways that benefit at-risk species.

The Service and the 15 southeastern States that are part of the SEAFWA are currently working to complete the actions identified in the Service’s 7-year listing workplan that was solidified in the Multi-District Litigation settlement agreement. The workplan was developed jointly with the States and is publicly available at www.fws.gov/endangered/improving_esa/listing_workplan_FY13-18.html. The Service’s Northeast Region and those States are also committed to the same process.

Another part of the Service’s at-risk conservation effort includes working closely with the Southeast Association of Fish and Wildlife Agencies’ Wildlife Diversity Committee and moving aggressively to share expertise, available science and monitoring data that I believe is crucial to our efforts to evaluate the status of fish, wildlife and plants that are included in our listing

workload. The SEAFWA Diversity Committee now leads this effort with the Service. An exceptional example of how the ESA works through a collaborative effort and is successful. I believe this expanded partnership is helping the Service and the States to efficiently speed progress in their collective effort to achieve the conservation needed to render unnecessary the listing of as many species as possible. Using the ESA proactively, it is possible to manage species' needs and secure conservation as well as to keep working lands working.

During this time, we also worked with closely states, industry, federal agencies, and large private landowners to employ creative, innovative, and voluntary strategies in the implementation of the ESA. These efforts are producing positive results for conservation and recovery and the local economies. The results of this Service and state-led collaboration has proven to be very promising so far. Through these collaborative efforts, the Service has determined that federal listing is not needed for approximately 171 species, and they are working with partners to put in place conservation tools that provide landowners with stability and clear expectations.

I am proud of the many collaborative actions taken by the Service and its partners across the Southeast to conserve at-risk species during my time as Regional Director. One such collaboration is the Unpaved Roads Program in Arkansas. The Service is part of a coalition of a dozen organizations and associations led by the Arkansas Farm Bureau, the Arkansas Game and Fish Commission, the Association of Arkansas Counties, and The Nature Conservancy to work collaboratively to develop simple best management practices to make it easier for the counties to maintain and repair rural, unpaved roads while reducing costs and improving water quality. This is important because, at the time, about 85 percent of Arkansas county roads were unpaved. These roads are critically important to local economies and these actions may minimize erosion and improve the health of lakes and rivers. Reducing sedimentation, thereby improving water quality, from unpaved roads is key to conserving many of the aquatic species that need to be evaluated under the ESA. The Service supports the use of voluntary conservation programs like those offered by the Natural Resources Conservation Service (NRCS) and the Service's PFW Program, to conserve and enhance fish and wildlife habitat, which are essential for helping to preclude the need to list at-risk species in Arkansas.

This proactive approach to conservation is starting to pay dividends, and many at-risk species no longer need the ESA's protection. Some of this work includes the discovery of new information, some is because of these voluntary conservation agreements and the associated actions, and some species' populations were found to already be secure. These collaborative partnerships efforts are continuing to grow.

In the Service's Southeast and Northeast Regions, our objective was, and continues to be, to conserve species in a way that comports with the ESA, protects our natural way of life, continues to allow working lands to work, and ensures the enduring tradition of outdoor recreation that is so important to many of our citizens. There are also small pockets around the country that working in a similar fashion. That work was recently highlighted in a paper entitled "Improving Implementation of the Endangered Species Act: Finding Common Ground through Common Sense" written by Paul Henson, Rollie White, and Steve P. Thompson. This paper clearly states "The ESA is a resounding success story. It stops extinctions and recovers species..." It also concludes that "...Although the ESA enjoys broad support among the American public, over the

years, its implementation has alienated key segments of that public. The act is a flexible statute, and it can be implemented with more common sense to find common ground...”

Private Landowners’ ESA Recovery and Conservation

Private lands are predominant in the Southeast and comprise about 90 percent of the landscape under the purview of the Service’s Regional Director. As such, private landowners are key to any conservation effort. As the Regional Director, I worked hard to ensure staff used a common-sense approach to fish and wildlife conservation, working with everyone on the landscape to balance the various interests, whether there were, or were not, conflicts. Many times, while working with private landowners, the Service and the State had to ensure there was “no daylight” between our positions on an issue so that we spoke with one voice to the regulated community. Oftentimes, there is confusion over roles of the State fish and wildlife agencies and the Service because the missions are similar. To be effective in species conservation, I believe it’s important that all parties respect the different values essential to a landowner’s way of life and what they as individuals require from their lands, whether it’s farming, timber, energy, economic profit, hunting and fishing, national defense preparedness or any number of other uses. I know from experience that working collaboratively towards conservation goals allows us to conserve wildlife species and support the shared values and ownership objectives on private lands.

It is estimated that private lands provide habitat for 90 percent of our nation’s imperiled species. Since the Southeast is rich in biodiversity, it isn’t surprising that the region has the largest percentage of listed species in the nation. In fact, eight of the top ten states/territories with the most federal listings are in the South, with Alabama being one of the states with the most aquatic diversity in the south, and perhaps across the nation, having 127 federally protected species in total as of July 2016. However, you don’t hear as much controversy in this region compared to others. In my former job, I tried to move conservation forward without a lot of conflict. Those that were before me did as well. This is the balance I am referring to.

But, private landowners needed to engage for this At Risk Species Conservation Strategy to be successful. Together, the Service and the States are addressing the need to protect additional plants and animals without listing and working to provide incentives and assurances for private landowners to get engagement in these efforts. A large majority of the land in the United States is privately owned and the privately-owned land is often the most agriculturally productive as well as critically important to wildlife and fisheries. Also, well known, is that the vast majority of landscapes in the United States are described as “working landscapes” where at least parts of the landscape are utilized for economic activity such as production of food and fiber and/or energy production. Even most of our public lands can be described as working landscapes and a large percentage are utilized to some degree by the private sector. Common to almost all these working landscapes is the importance of private interests, including in most cases private landowners, and the decisions they make in their operations.

Private landowners also working hard to try and find creative solution to the species conflicts with working lands. Partners for Conservation (PFC), established in 2008, embodies a grassroots movement of private landowners working with agencies, non-profit organizations, and policymakers to collaborate on conservation projects to sustain working landscapes for present

and future generations. PFC represents the voices of 21st century conservation and the collective effort to support working landscapes through voluntary, incentive-based public and private programs.

Landowners care very deeply about the lands they steward for a number of social, historic, economic, and altruistic reasons. Landowners also care very deeply about their rural communities that are also dependent upon the condition of the natural resources that exist on the land. It has become more evident in recent years, that landowners believe that conserving their land and sustaining their communities requires collaboration that goes beyond the fence line. PFC seeks to help facilitate the process of coming together to ensure functional landscapes and viable rural communities are found across the country, by working to improve communication among landowners and landscapes as well as between public agencies and stakeholders.

Leveraging Other Federal Agencies' ESA Conservation and Recovery

Under the ESA, Federal agencies have a special obligation to conserve imperiled species and their habitats. Under Section 7(a)(1) of the ESA, Federal agencies are required to "...utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act." Under Section 7(a)(2), Federal agencies are required to consult with the Service to ensure that their actions do not jeopardize the continued existence of a listed species or adversely modify its critical habitat that the species needs to recover. The Service works with Federal agencies through the consultation process to avoid or minimize impacts to a species and critical habitat by developing appropriate conservation measures that can be incorporated into the project or, if needed, a biological opinion. I believe these sections of the ESA could be used even more effectively than is currently done to meet the ESA's goals. The Service's Federal partners like the Department of Defense (DoD) and the U.S. Army Corps (USACE) proactively conserve species through voluntary actions developed under Section 7(a)(1) that help streamline Section 7(a)(2) consultations.

Conservation plans developed by Federal agencies under the 7(a)(1) authority offer another example of the flexibility within the ESA. For example, in 2013 the Service conducted a consultation under Section 7(a)(2) with the USACE's Mississippi Valley Division on the Conservation Plan for the Interior Least Tern, Pallid Sturgeon, and Fat Pocketbook Mussel in the Lower Mississippi River Channel Improvement Program Conservation Plan, which outlines a process to conserve the three endangered species within the footprint of the Program in the Lower Mississippi River (LMR). Over the course of the consultation, individuals realized that that the most significant impacts to the endangered species and their river habitats could be important and effective tools to maintain and enhance its ecological functions were needed. This resulted in the identification of conservation opportunities that could be effectively incorporated into existing channel improvement or maintenance projects, with little to no additional program costs, and with no negative impact to the USACE's primary flood management and navigation safety missions. It also resulted in significantly improved habitat and population baselines for all three endangered species within the LMR portion of their ranges. The consultation demonstrates that numerous benefits for the species, the ecosystem, and the agencies can be derived under Section 7(a)(1). Largely because of this work, the Service recommended in a five-year status

review that the Interior least tern should be delisted. Section 7(a)(1) agreements can provide greater predictability and efficiency to federal agencies and puts in place a transparent and continuous process of effective interagency communication, review, and feedback at all levels of management. This ensures a strong adaptive management component of cost-effective conservation program execution that helps streamline the 7(a)(2) consultation process.

Additionally, Congress acknowledged DoD's important mission of military readiness and reflected it in Section 7(j) of the ESA. From my experience in the Southeast, DoD takes conservation seriously, and it is evident by the fact that DoD has never invoked Section 7(j) even when invited to do so. DoD continues to work proactively with the Service to actively conserve at-risk and listed species even with this exemption in the law. DoD sees integration of on- and off-installation conservation activities as one potential tool that provides extra flexibility in implementing the ESA that addresses the dynamics of future training requirements that are uncertain yet for which the ability to respond must be preserved. I have seen firsthand DoD's active pursuit of innovative and creative approaches to addressing conflicts between species and training.

I worked with my counterparts at DoD to develop a prelisting agreement for at-risk species. The "*Gopher Tortoise Conservation and Crediting Strategy*" ensures the military has the regulatory predictability it needs to carry out critical missions and training while at the same time providing conservation benefits for the gopher tortoise, which is at-risk of needing federal protection in the eastern portion of its range. This type of solution-oriented partnership offers flexibility for the military, private landowners, public agencies and others that keeps working lands working, contributes to our nation's military readiness, and provides hunting, fishing and recreational opportunities.

Another DoD example of collaborative conservation the Red-Cockaded Woodpecker (RCW) Recovery and Sustainment Program (RASP) partnership on Marine Corps Base Camp Lejeune, in North Carolina. The goal of this partnership is to manage the RCW and its habitat while allowing the Marine Corps to enhance its operational and training opportunities. DoD along with the North Carolina Wildlife Resources Commission (NCWRC), which leads the management effort, the Service, and the National Fish and Wildlife Foundation are all working together to protect the endangered woodpecker. Through this partnership, DoD has funded a perpetual endowment to cover the costs of RCW management on the State-owned game lands. The NCWRC will conduct short and long-term management activities to establish and conserve longleaf pine forest habitat essential for RCW recovery.

DoD is one of the federal agencies leading the effort with the Service and the states to conserve species and ensure military training is not impacted but NRCS is also helping to lead the way in meeting its mission and conserving species. Through the Working Lands for Wildlife Program, NRCS uses a win-win approach to systematically target conservation efforts to improve agricultural and forest productivity which enhance wildlife habitat on working landscapes. Specific target species (e.g., gopher tortoise) are used as barometers for success because their habitat needs are representative of healthy, functioning ecosystems where conservation efforts benefit a much broader suite of species. Through the Farm Bill, NRCS provides technical and financial assistance to participants who voluntarily make improvements to their working lands while the Service provides participants with regulatory predictability for certain species under

the ESA. This innovative approach empowers landowners with a means to make on-the-ground improvements and provides peace of mind that no matter the legal status of a species, they can keep their working lands working. This model has proven extremely popular with private landowners across the nation. To date, WLFW has helped producers conserve millions of acres of wildlife habitat and have helped many species such as the New England cottontail in the Northeast. For the cottontail — in large part because of voluntary conservation efforts on private lands — the Service determined listing under ESA was not warranted. Beginning in 2017, NRCS expanded this model and now includes 19 landscapes covering 48 States.

NGOs Conservation and Recovery Efforts

Wildlife Mississippi has recognized that mitigation is a great way to protect, restore and enhance significant wetlands, rivers and streams in Mississippi, and benefit listed species. It also recognizes that if it provides reasonably-priced mitigation credits to economic developers who must compensate for unavoidable impacts to wetlands and streams, it could help foster sustainable economic development and help expand and recruit business and industry, thereby increasing jobs in Mississippi. With this concept in mind, Wildlife Mississippi created the Mississippi Strategic Wetland Acquisition and Management Program, or Mississippi SWAMP for short. Today, Wildlife Mississippi owns and manages approximately 20,000 acres of mitigation lands, making it one of the largest owners of mitigation banks in the nation. These mitigation banks are in areas that not only help meet a significant ecological need but provide the greatest service to future economic development and some of the lowest cost mitigation credits in the United States. This allows Mississippi to have a competitive edge in competing for businesses and industries, putting more of its citizens to work. As an example, they have purchased over 8,000 acres and 34 miles of the Buttahatchie River in Northeast Mississippi. This river harbors six federally listed mussel species. They have developed most of these lands into mitigation banks, significantly benefitting economic development and improving water quality and habitat for these species and demonstrating how mitigation can be used to conduct landscape level conservation. Another example – they have purchased approximately 20 miles of Bayou Pierre, the only home known of the threatened bayou darter. They recently helped bring Continental Tire to Mississippi, adding over 3,000 new jobs, but using the mitigation Continental needed for the tire plant to purchase and restore another 1,000 acres along this critically important river. I believe healthy landscapes and healthy economies go hand in hand

To help support the efforts in recovering grizzly bears, the National Wildlife Federation works with ranchers grazing on public lands to eliminate livestock/grizzly conflicts in areas of high bear activity; the Greater Yellowstone Coalition has led efforts to bear-proof public campgrounds all around Yellowstone National Park; and rancher associations like the Madison Valley Ranch Lands Group and the Centennial Valley Association hired range riders to monitor and protect the livestock herds of their members. Similarly, collaborative efforts by state and federal officials in Delaware and Maryland, partnering with private forest landowner and the forest products industry, helped restore critical fox squirrel habitat across the Delmarva Peninsula. All to conserve species and allow working lands to work.

Industry ESA Conservation and Recovery Efforts

During my time as Regional Director, I also partnered with industry to implement landscape-scale restoration that meets both conservation and economic needs. One of the greatest areas of risk for large privately owned working forests is having forest management or harvest activities modified or restricted by decisions made under the auspices of the ESA.

The Service and states work with member companies of the National Alliance of Forest Owners (NAFO) are proactively collaborating to conserve at-risk and declining species – specifically, to provide young forest, open canopy, and riparian and aquatic habitats in actively managed working forests to help conserve at-risk and other rare species. Commercial forest management activities can be planned for as long as 10, 20, or 50 years into the future, and this at-risk species effort will position actively managed forests as contributing to the conservation of species, particularly species that need young forest, open canopy or riparian and aquatic habitats. The effort is based on mutual trust and the desire of all entities to build a lasting partnership that transcends administrations, personnel changes, and time. While it is still a developing partnership, progress towards affecting species conservation and lasting change is already being demonstrated, and NAFO is actively continuing the effort.

I also worked with Resource Management Service, LLC (RMS), an industrial timberland management and acquisitions firm, on the Coastal Headwaters Forest project. RMS invested in the Coastal Headwaters Forest project, which is unprecedented and could revolutionize the relationship between Southern timber, conservation and rural communities. Coastal Headwaters would also underscore the collaborative effort by the Service to conserve southern lands, create green corridors for protected and at-risk species and protect prime hunting and fishing areas. The Southeast Conservation Adaptation Strategy (SECAS), which is supported by the Service and more than two dozen Southeast state wildlife agencies, conservation groups and others, seeks to knit together large tracts of public and private land by 2060 to develop wildlife corridors and help protect areas that are high priority for wildlife and are shared goals for all. RMS Coastal Headwaters project is an important tract of land in this effort. This is one more example of industry working together with the Service, States and other partners to conserve species and the land they depend upon.

In 2014, the Service announced that Georgia aster does not require federal protection under the ESA, a decision reflecting years of conservation work by myriad partners including Georgia Power, a Southern Company energy provider. Georgia aster is a wide-ranging, but rare, purple-flowering plant found in the upper Piedmont and lower mountain regions of Alabama, Georgia, North Carolina and South Carolina. The plant has been a candidate for the federal endangered species list since 1999. Georgia Power and the Georgia Department of Transportation, two partners to the agreement, committed to measures that will conserve the species like agreeing to avoid broadcast spraying of herbicides near Georgia aster populations and marking populations to avoid damaging the plants during right-of-way maintenance. Southern Company is also working to conserve the robust redhorse, which was believed to be extinct for 122 years. Georgia Department of Natural Resources (DNR) biologists discovered several robust redhorse in the Oconee River near Toombsboro, Georgia. The Service and Georgia Power, along with many other partners, developed a Candidate Conservation Agreement with Assurances for

the robust redhorse in the Ocmulgee River, Georgia. The agreement involves the commitment of specified research and management actions in exchange for assurances to non-federal participants that further regulatory actions will not be undertaken if the legal status of the species were to change.

Conservation without Conflict

In meeting the responsibility to ensure the future of wildlife, Federal and state governments often use regulations to protect and manage species. Regulations have an important role in the history of conserving the abundance and diversity of the nation's fish and wildlife resources and ensuring access and opportunity to enjoy them, thus safeguarding our rich natural heritage for current and future generations. Nevertheless, regulatory actions don't always promote the collaboration that is necessary to achieve the level of conservation required to ensure the future of wildlife. Indeed, regulatory inflexibility can create a counterproductive and adversarial tension as landowners try to balance their individual priority needs with public expectations for conserving fish and wildlife. Across the country, and especially in the eastern United States, the future of fish and wildlife depends heavily on private landowners.

A collaborative approach, along with appropriate and effective incentives that recognize the benefits landowners provide to America's fish and wildlife, can help landowners keep working lands working. This approach realizes the economic and cultural benefits of working landscapes, allows recreational opportunities, and contributes to the enhancement of important habitats. Collaboration that promotes this essential balance of mutual gain among partners is more successful in providing conservation at the scales needed and will be more sustainable than a relationship relying on regulatory approaches alone or at all. This is the essence of Conservation without Conflict

Conservation without Conflict is both an approach and a coalition of numerous organizations. Members have diverse goals and values, including economic profit and sustainability, hunting, fishing and other outdoor recreation, conservation, national security, and public service that come together around common interests and in a sense of good land stewardship. The goal is to demonstrate that investments in collaborative conservation protects lands and the values we ascribe to them and ensures working lands work while conserving species. A Conservation without Conflict Summit will be held in March 2019 in Washington, DC as a follow-up to the initial meeting last year in Atlanta, Georgia.

A lot has been accomplished over the past year but there is more to do. There is a commitment to working cooperatively to conserve at-risk and listed species while both respecting and supporting the needs of landowners, industry, states and other Federal agencies. New organizations have joined in the collaborative approach to conservation. The Service has expanded its engagement and has support from leadership to continue to pursue the goals of operationalizing the principles of Conservation without Conflict across the nation.

This coalition is working to keep forests, farms, ranches and defense installations working for people and wildlife. The goal is to use sound science and proactive, collaborative conservation to recover listed species and conserve as many species of fish, wildlife and plants as possible, minimizing the need for the ESA's protections. If federal protection is required, creative use of

the ESA's flexibilities to apply existing tools, or develop new collaborative incentives as needed, to provide regulatory predictability and assurances for landowners' conservation efforts. With demonstrated success across the Northeast and the Southeast, and within limited areas across the country creating regulatory flexibility and incentives around at-risk and listed species, the hope is that this approach can be broadened to areas of the country that have challenges and obstacles blocking the conservation effort.

ESA Implementation and Resource Needs

Based on data from the Service, the ESA has saved species from extinction and conserved many more from needing the protection of the ESA – both need to be recognized. In a recent report by U.S. Geological Survey they reported that the State/Territorial Wildlife Action Plans identified 12,263 species, not including plants as Species of Greatest Conservation Need (SGCN). The list of SGCNs includes aquatic and terrestrial species that are at-risk or are declining, as well as many other species whose populations are of concern within a State's jurisdiction. USGS compiled a comprehensive SGCN database: https://www1.usgs.gov/csas/swap/national_list.html that lists these species.

It is widely acknowledged that precluding the need to list a species under the ESA saves money. The cost associated with an ESA listing builds up quickly when you consider the cost of a proposed and final rule to list a species, a proposed and final rule for critical habitat, a possible 4(d) rule under the ESA, which allows for management flexibility, if a species is listed as threatened, and all of the actions (e.g., section 7(a)(2) consultations) after a listing occurs, including staff time and then the impacts to landowners from increase regulations. The cost only increases when a listing occurs. The Service and the States, along with appropriate stakeholders need to ensure every bit of flexibility under the ESA is explored, and new and innovative approaches for providing incentives and assurances to landowners are developed.

I believe that funding is one of the limiting factors in implementing the ESA and realizing successes. A common sense approach to conservation will help but even for that approach to work, more resources are needed. Staff is needed to develop agreements (e.g., Safe Harbor Agreements) that identify voluntary actions to be taken by those working on the landscape to conserve species that will also provide assurances or regulatory certainty. Species surveys and species status assessments need to be done but all these actions require funding, and unfortunately, both the Service and the States are limited by the resources available for conservation actions.

I know the effectiveness of ESA would increase if more funding was dedicated to the Services and the states. For the ESA to work as was intended, the agencies charged with overseeing and implementing it need to have the resources (e.g., staff and funding) necessary to conduct the work needed (e.g., developing agreements with assurances or section 7(a)(1) consultations) for those landowners regulated by the ESA.

It is important for Congress to hear from individuals and organizations involved in these collaborative efforts and to know that their colleagues in the House Appropriation Committee are leading an effort to improve the implementation of the ESA by using the flexibilities already inherent in the ESA. In FY 2018, the House Appropriation Committee added the following

language "...Based on feedback provided by the States, the Service is commended for its efforts in the Southeast to work with States and others to preclude the need to list many of the hundreds of species recently petitioned for listing. The effort demonstrated that the ESA can work when the Federal government treats States as equal partners and makes full use of flexibilities already inherent in the ESA to minimize regulatory burdens. The Service is expected to expand this model." And, then in FY 2019, the House Appropriation Committee added supportive language in the draft house bill that directs the increase in Candidate Conservation to the Service's Regions that "...have adopted the Southeast model of true collaboration with the States." This funding allows for voluntary, proactive work with partners and is not tied to the regulatory requirements of the ESA like listing and critical habitat designations. Conservation and recovery activities for species will be more successful if funding were available for the Service's recovery activities, their work to develop innovative agreements with assurances; the State activities that include proactive species conservation, recovery planning and implementation, and the work of State Wildlife Action Plans; and to develop agreements with private landowners that will provide assurances and an incentive for them to engage in conservation.

There have been numerous successful efforts to improve the efficiency and effectiveness of the ESA through administrative actions that has provided more flexibility over the years, all the while staying committed to the purposes and goals of the law itself. During my time as Regional Director, I demonstrated that the ESA has inherent flexibilities and, if implemented in a common sense approach, can work. Several improvements in the administrative processes (e.g., Habitat Conservation Plans, Candidate Conservation Agreements, etc.) over the years have made the ESA work better for both the species and for landowners. The Services continue these constructive and innovative improvements today, and I know the Service is willing to work with others to develop new tools under the ESA.

I am aware of the various bills proposed to amend the ESA. However, the ESA already has quite a bit of flexibility that allows us to recover those species federally listed, and conserve at-risk species so they do not need the protection of the ESA, but these flexibilities are not always used today. If ESA amendments are considered, I think it is important to think strategically about what works and what is really needed to improve the ESA. More process will slow the effectiveness of the ESA down and new terms that may be introduced could result in ambiguity. It is important to minimize the opportunities that allow the courts to get involved with ESA implementation because of the introduction of new terms or requirements that may not be defined or could be interpreted differently. I have demonstrated that some practitioners are already using the flexibilities already inherent in the ESA to conserve species while ensuring working lands work. What we really need is more time, new innovative tools, adequate resources to implement the ESA, and more people that use a common sense approach to implementation.

Invasive Species

An invasive species is one that is not native to an ecosystem and which causes, or is likely to cause, economic or environmental harm or harm to human health. In addition to the many invasive species from outside the U.S., there are many species from within the nation that are invasive in other parts of the country.

The Service is the only agency of the U.S. Government whose primary responsibility is the conservation of the nation's fish, wildlife, and plants. Because of these responsibilities, I know that the Service is very concerned about the impacts that invasive species are having across the Nation. Invasive plants and animals have many impacts on fish and wildlife resources. Invasive species degrade, change or displace native habitats and compete with our native wildlife and are thus harmful to our fish, wildlife and plant resources.

The Service has many programs addressing invasive species issues like the Aquatic Nuisance Species (ANS) Program with various programs on prevention such as "Stop Aquatic Hitchhikers" and the "Habitattitude" public awareness campaigns; staff that conduct activities related to the listing of organisms as injurious wildlife and staff that address invasive species issues through its work in integrated pest management and to promote the use of native plants as part of its efforts to protect pollinators and biocontrol

In addition to this work, the Service ensures it addresses invasive species issues on the National Wildlife Refuges, encompassing approximately about 96 million acres of wildlife habitat; impacts to at-risk, threatened and endangered species and the ecosystems on which they depend; and by using wildlife inspectors at the major U.S. airports, ocean ports, and border crossings to prevent the introduction of injurious wildlife through its wildlife inspection program. The Southeast was an area with quite a bit of invasive species challenges.

Conclusion

In closing, Mr. Chairman, I'd like to emphasize the importance of both the Service and the state's roles to conserve and recover imperiled species. These roles were clearly defined by Congress and provide for a role for both the federal agencies and the state agencies in the ESA. When the ESA is implemented more effectively and collaboratively, and with a common sense approach, you get benefits for those species already listed under the law and those species at-risk of needing the ESA protection, as well as for landowners.

Both the states and the Service rely upon having a science-driven, transparent decision-making process in which people and businesses in affected communities can participate easily and effectively. I know the Service and the states, especially those in the Southeast, are committed to conserving America's fish and wildlife by relying upon strong partnerships and creative, voluntary solutions to achieve conservation, minimize the regulatory burden and keep working lands working. Their commitment is demonstrated by the conservation successes they have seen. I believe what we really need is more time, new innovative tools, adequate resources to implement the ESA, and more people that use a common sense approach to implementation.

Thank you for your interest in recovering and conserving species and in the ESA implementation more generally. I appreciate the opportunity to testify here today. I would be pleased to answer to any questions you and other members of the Committee might have.