

**STATEMENT OF DAN ASHE, DIRECTOR  
U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR  
BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, SUBCOMMITTEE  
ON FISHERIES, WATER, AND WILDLIFE ON THE ENDANGERED SPECIES ACT  
BRIEFING  
ON  
“IMPROVING THE ENDANGERED SPECIES ACT: PERSPECTIVES FROM THE FISH AND WILDLIFE  
SERVICE AND STATE GOVERNORS”**

September 29, 2015

Good morning Chairman Sullivan, Ranking Member Whitehouse, and Members of the Subcommittee. Thank you for inviting me to brief the Subcommittee today on the Endangered Species Act (ESA). My testimony will focus on our successes under the ESA, as well as the changes we are undertaking administratively to improve the implementation of the ESA. Over the last four decades, the need for conservation of at-risk plants and animals across the nation has dramatically increased. We are in the midst of an extinction crisis. With the human population at a historic peak, wildlife must compete for decreasing habitat and resources. To help address the growing need to protect imperiled species, the ESA remains a critical and effective tool to protect our nation’s wildlife heritage for future generations of Americans.

**Overview of the Endangered Species Act**

The Endangered Species Act is one of the nation’s most important conservation laws. Since it was enacted by Congress in 1973, the ESA has successfully prevented the extinction of more than 99 percent of the species it protects, demonstrating that it does work. Its continued success is predicated upon the Service’s partnerships with states, other Federal agencies and private landowners, as demonstrated by several recent conservation achievements, which I will later discuss. The ESA is implemented jointly by the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA).

Under the ESA, species like the California condor, grizzly bear, whooping crane, and black-footed ferret have all been brought back from the brink of extinction. In addition, the bald eagle, American alligator, Oregon chub, and many other species have fully recovered and no longer need protection under the law. Equally important, the landowner tools and collaborative approach that the Service and its many partners have brought to grassroots conservation efforts have stabilized and improved the condition of many other species, precluding the need to list them under the ESA. In protecting these species, the ESA is a powerful tool for conserving habitat that also benefits clean water and clean air, outdoor recreation, and our nation’s natural and cultural heritage.

Today, hundreds of species are stable or improving thanks to federal, state and local agencies, conservation organizations, and citizens. The ESA’s flexibility promotes voluntary partnerships to support America’s unique wildlife and healthy economic development. By helping to sustain habitats treasured by hunters, anglers, birders, hikers and other outdoor enthusiasts, the ESA ensures that where wildlife thrives, people prosper.

## **Endangered Species Act Successes**

America's fish, wildlife, and plant resources belong to all Americans, and ensuring the health of imperiled species is a shared responsibility for all of us. In implementing the ESA, the Service adheres rigorously to the statutory requirement that implementation of the law be based on the best available information. At the same time, the Service has been responsive to the need to develop flexible, innovative mechanisms to cooperate with states, private landowners, and others, both to preclude the need to list species where possible, and to speed the recovery of those species that are listed. The Service remains committed to conserving America's fish and wildlife by relying upon the best available science and working in partnership to achieve recovery.

Some aspects of that record are worth noting at the outset. Already in this Administration, more species have been taken off the endangered list due to recovery than in any prior Administration. Though still warranting protection, many other species – among them the California condor, black-footed ferret, whooping crane, Florida manatee, Kirtland's warbler, Kemp's ridley sea turtle, and Florida panther – have had their populations increase to or near their highest levels in decades. Scores of other species that were identified as candidates for federal protection, like the dunes sagebrush lizard, were ultimately determined not to need that protection as a result of conservation efforts spurred by the potential prospect of a listing under the law.

Through a multi-year listing work plan established in 2011, the Service has dramatically reduced the amount of litigation related to ESA and focused its limited resources on the conservation of candidate species for ESA protections. The work plan makes administration of the ESA more effective and efficient by enabling the agency to prioritize its workload based on the needs of at-risk species. It also provides federal and state agencies and landowners clarity and certainty about the timing of future listing determinations. The work plan has also catalyzed stakeholders to engage in conservation efforts to address species' needs before a listing decision is made. Some of the most recent successes include the greater sage-grouse, New England cottontail rabbit, and the arctic grayling.

### ***Greater Sage-grouse***

The Service's recent decision that the greater sage-grouse does not warrant protection under the ESA is the result of an unprecedented conservation partnership spread across the western United States. This partnership significantly reduces threats across 90 percent of the species' breeding habitat. Numerous federal agencies, the states in the range, and dozens of public and private partners undertook an extraordinary campaign to conserve the greater sage-grouse. Revisions to 98 federal land use plans were bolstered by development of state sage-grouse management plans in 10 of the 11 states in the sage-grouse range and by a voluntary, multi-partner private-lands effort that has protected high-quality sage-grouse habitat on millions of acres of ranches across the West. The goal was to ensure enough protection to reduce the threats to the species such that listing was not required, and the partnership succeeded in meeting that goal.

Additionally, in April 2015, the Service determined that the bi-state population of greater sage-grouse did not require the protections of the ESA. A key factor in the decision not to list this population was the development of The Bi-State Action Plan, a conservation plan developed by partners in the Bi-State Local Area Working Group over the past 15 years and secured with \$45 million in funding. The collaborative, science-based efforts in Nevada and California, and the comprehensive plan and funding commitments, set the stage for the next generation of conservation and give the Service confidence that the sage-grouse population will not become in danger of extinction in the Bi-State region.

The successes of various partnerships to conserve the greater sage-grouse demonstrate that the ESA is an effective and flexible tool that can be a tremendous catalyst for conservation, while giving the states and other partners the ability to plan for sustainable development of natural resources.

### ***New England Cottontail***

As the Service announced earlier this month, another example of a successful public-private partnership uniting foresters, farmers, birdwatchers, biologists, hunters and other conservationists worked to save the New England cottontail from needing protection under the ESA.

The partnership has also initiated on-the-ground conservation efforts for the cottontail that will benefit the rabbit into the future. The rabbit was classified as a candidate for ESA protection in 2006. Recognizing both the urgency and the opportunity to conserve the species, in 2008 state and federal biologists began a coordinated conservation effort that has fueled the species' path to recovery. That effort includes the development of a rangewide, science-based conservation strategy that has targeted ambitious but achievable goals.

Voluntary restoration efforts on private lands played a critical role in increasing and connecting early successional habitat. In the past three years, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) has worked with owners and managers of private lands to restore more than 4,400 acres of habitat by removing trees and invasive species, planting native shrubs and creating brush piles.

### ***Arctic grayling***

The ESA brought the declining status of Montana's Arctic grayling into focus and empowered the Service to engage multiple federal and state agencies and landowners through a Candidate Conservation Agreement with Assurances, a voluntary program that gives regulatory assurances to private landowners in exchange for voluntary conservation measures. To date, 33 ranching families have implemented more than 250 conservation projects across 158,000 acres to benefit this freshwater fish, which significantly improved habitat conditions and led to the Service's August 2014 determination that Arctic grayling in the upper Missouri River drainage did not need ESA protection.

### ***Oregon chub***

Earlier this year, the Service published a final rule to recognize the recovery of, and remove from the protection of the ESA, the Oregon chub, a fish native to rivers and streams in the State of Oregon. The recovery of the Oregon chub is noteworthy because it is attributable in significant part to the cooperation of private landowners who entered into voluntary conservation agreements to manage their lands in ways that would be helpful to this rare fish. In some cases, landowners agreed to cooperate in reintroducing the fish into suitable waters on their property. The help of private landowners and the cooperation of state and federal partners were critical to the success in bringing this fish to the point at which it is no longer endangered and no longer in need of the protection of the ESA.

The recovery of the Oregon chub has taken a little more than 20 years of sustained effort. That is a relatively speedy time frame within which to undo the effects of habitat loss and degradation and the other threats that are responsible for the endangerment of many species. For comparison, the recovery and delisting of the bald eagle was the culmination of a 40-year conservation effort and the Aleutian Canada goose recovery took 34 years.

### ***Louisiana black bear***

This spring, thanks to a highly successful public-private partnership, the Service published a proposal to remove the Louisiana black bear from the list of threatened and endangered species under the ESA. For more than 20 years, the Service has partnered with the Louisiana Department of Wildlife and Fisheries, Natural Resources Conservation Service, University of Tennessee, private landowners and others to address the threat of habitat loss in the bear's range. This includes researching the status of the existing populations, establishing additional subpopulations, and protecting or restoring more than 750,000 acres of habitat. A large proportion of habitat supporting and connecting breeding subpopulations has been protected and restored voluntarily through private-landowner restoration efforts. Because of these voluntary conservation agreements with private landowners and public conservation agencies in the Tensas and Atchafalaya River basins providing long-term habitat protection, the Service has assurances that degradation is not likely to occur for at least 100 years.

## **Improving the Implementation of the Endangered Species Act**

As I testified in May, the Administration is continuing to take steps to improve the implementation of the ESA. The Service is committed to making the ESA work for the American people to accomplish its purpose of conserving threatened and endangered species and protecting the ecosystems upon which they depend. As part of the Administration's ongoing efforts, the Service will be unveiling additional proposals over the coming year to achieve four broad goals:

- 1) Improving science and increasing transparency. To improve public understanding of and engagement in ESA listing processes, the Service will strengthen procedures to ensure that all information that can be publicly disclosed related to proposed listing and critical habitat rule notices will be posted online; and adopt more rigorous procedures to ensure consistent, transparent, and objective peer review of proposed decisions.

- 2) Incentivizing voluntary conservation efforts. Voluntary conservation programs, such as Safe Harbor agreements and Candidate Conservation Agreements, can improve conditions for listed and at-risk species, and conservation banking can make listed species and their habitats assets for landowners. The Service will update guidance on the use of these proactive tools to establish consistent standards; and adopt a policy promoting the expanded use of conservation banking and other advance mitigation tools.
- 3) Focusing resources to achieve more successes. The Service will work to focus limited resources on activities that will have the greatest impact. These actions include proposed revisions to interagency consultation procedures to streamline the process for projects, such as habitat-restoration activities, that result in a net conservation benefit for the species and updates to the Habitat Conservation Planning Handbook to make developing and permitting plans more efficient and timely.
- 4) Engaging the States. State fish and wildlife agencies, by virtue of their responsibilities and expertise, are essential partners in efforts to conserve threatened and endangered species. The Service has proposed revised petition regulations to give states an opportunity to provide input prior to submission; and will update policy regarding the role of state agencies to reflect advancements in collaboration between the Service and the States.

These proposals add to other actions already in progress, such as finalizing a policy on prelisting conservation credits and updating our regulations and policy regarding critical habitat designations. Efforts to make the ESA work better will also include additional future review and update of regulations and policy, consistent with President Obama's Executive Order 13563, Improving Regulation and Regulatory Review, and is outlined in the Department of Interior's Preliminary Plan for Retrospective Regulatory Review.

As the Administration moves forward with efforts to improve the implementation of the ESA, the most significant step that Congress can take in improving effectiveness of the ESA is to provide the resources needed to get the job done in the field. To that end, we ask that Congress support the President's budget request for Fiscal Year 2016.

## **Conclusion**

In the last six years, almost two dozen species have both been recovered and delisted, or are now proposed for delisting. There have also been more than a dozen imperiled species that were candidates for listing under the Act that have been conserved through proactive efforts and no longer require consideration for listing. They include the Bi-State population of the greater sage-grouse, the Montana population of arctic grayling, and the Coral Pink Sand Dunes tiger beetle. Most importantly, nearly all of the plants and animals protected by the ESA are still with us. They still have a fighting chance for survival, despite the many threats that beset them.

The ESA was enacted in 1973 to protect plants and animal species threatened with extinction. While the challenges we face now are large and daunting, the Act has been extraordinarily

effective in preventing extinctions and has spurred unprecedented voluntary species conservation efforts across the nation. The Service will continue to focus its efforts on ways to improve the implementation of the Act to conserve those species at risk of extinction.

Thank you for your interest in endangered species conservation and ESA implementation, and for the opportunity to testify.