

Testimony

of

**JAMIE RAPPAPORT CLARK
PRESIDENT & CEO
DEFENDERS OF WILDLIFE**

before the

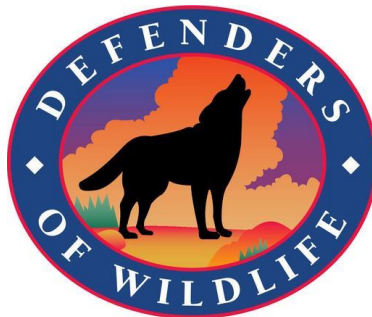
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

U.S. SENATE

on

Oversight: Modernization of the Endangered Species Act

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Good morning Chairman Barrasso, Ranking Member Carper and Members of the Committee:

My name is Jamie Rappaport Clark and I am the President and CEO of Defenders of Wildlife, a national non-profit conservation organization dedicated to the protection of all native animals and plants in their natural communities. Thank you for inviting me here today to speak about my experience conserving imperiled wildlife under the Endangered Species Act (ESA).

For 70 years, Defenders of Wildlife has protected and restored imperiled species throughout North America by establishing on the ground programs at the state and local level; securing and improving state, national, and international policies that protect species and their habitats; and upholding legal safeguards for native wildlife in the courts. We represent more than 1.2 million members and supporters.

Before coming to Defenders of Wildlife, I spent 20 years working in conservation as a wildlife biologist in the federal government, first at the Department of Defense and then at the Department of the Interior. From 1997 until 2001, I served as the Director of the U.S. Fish and Wildlife Service (FWS) under President Bill Clinton. In that role, I oversaw the implementation of the ESA and presided over the recovery and delisting of key endangered species including the bald eagle, the Aleutian Canada goose and the peregrine falcon. During my confirmation hearing before this committee almost 20 years ago, I pledged to increase the FWS's role in cooperative approaches to species conservation. I firmly believe that involving stakeholders and other federal and state agency expertise early on reaps long-term benefits for fish and wildlife resources and the economy. As detailed in my testimony, I remain convinced that such collaborative projects can be accomplished under the authority of the ESA in its current form.

The ESA is not broken and does not need to be fixed – or, in the vernacular of the hearing “modernized.” For more than 40 years, the ESA has been successful, bringing the bald eagle, the American alligator, the Stellar sea lion, the peregrine falcon and numerous other species back from the brink of extinction. Based on data from the FWS, the ESA has saved 99 percent of listed species from extinction. In its 44-year history, only 10 listed species have been officially declared extinct. Moreover, the ESA is in fact enormously flexible. Simply put, the ESA works. It has been improved by continuous administrative reforms that have made the ESA work better – both for the species it protects and for landowners and other stakeholders affected by its provisions. The Services have made enormous advances in implementing the ESA, from habitat conservation plans that integrate development and species conservation to candidate conservation agreements with assurances that provide regulatory certainty to landowners. And that process is continuing.

As this testimony emphasizes, the most important thing Congress can do to improve the ESA’s effectiveness is to fully fund it. The current fiscal starvation must end. For the ESA to work as effectively as was intended, the agencies charged with overseeing and implementing it simply must have the necessary resources to achieve its visionary purposes and goals. Congress must provide adequate resources – not change the structure of this successful and popular law – to help realize the ESA’s full potential.

A Visionary Law: The ESA's Values and Purpose Remain Strong Today

So many of the conservation successes I've witnessed during my career can be attributed to the Endangered Species Act – a law that has withstood the test of time thanks to its solid grounding in shared conservation values. The preamble to the ESA recognizes that endangered and threatened species of wildlife and plants “are of esthetic, ecological, educational, historic, recreational, and scientific value to the Nation and its people.”¹ The intrinsic value placed on the presence of diverse and abundant plant and animal species on the landscape has long been hailed as a fundamental American principle. That value has been shared throughout centuries of U.S. conservation history by Native American tribes, western settlers, hunters and anglers, property owners, scientists, conservation professionals and the average American citizen. In addition to their intrinsic value, many threatened and endangered species provide tangible services and benefits to humans, playing valuable roles in providing us with clean water, food, medicines and more.

The sudden extirpation of the passenger pigeon at the turn of the 20th Century – a bird that had numbered in the billions just decades prior – underscores that without adequate safeguards, even the most common species can vanish forever in the blink of an eye. By the 1960s and 70s, the urgent need to address lethal threats to imperiled species catalyzed existing public support for wildlife conservation, culminating in the enactment of the ESA in 1973. When President Richard Nixon signed the ESA into law, he reflected on public conservation values, recognizing that “Americans are more concerned than ever with conserving our natural resources,” including “an irreplaceable part of our natural heritage – threatened wildlife.” The values enshrined in the ESA still reflect the American public's strong commitment to wildlife conservation.

Far from being a controversial law, the ESA was enacted nearly unanimously with strong bipartisan support. Robust public support for the ESA has remained strong throughout the years. A July 2015 poll conducted by Tulchin Research on behalf of Defenders of Wildlife and Earthjustice revealed that 90 percent of American voters support the ESA. This support extended across gender, age, and political lines, with the law being backed by overwhelming majorities of self-identified liberals (96 percent support), moderates (94 percent), and conservatives (82 percent).² A poll from December 2016 conducted by Hart Research on behalf of the Center for American Progress revealed that 81 percent of American voters agree that saving at-risk wildlife from going extinct is an important goal for the federal government.³

The ESA is also notable for its strong, yet simple purpose: to prevent the extinction of threatened and endangered species, conserve the ecosystems they depend on, and promote their recovery. This broad purpose has allowed the oversight agencies to adapt and improve upon the law over the years through administrative actions. The ESA was intended to be a strong, yet flexible statute that prioritizes the conservation and recovery of threatened and endangered species, while simultaneously permitting activities, where appropriate, in imperiled species' habitat. This permitting regime is enshrined in Sections 7 and 10 of the Act, and it has been implemented with tremendous flexibility.

¹ National Oceanic Atmospheric Administration, *Full Text of the ESA*, <http://www.nmfs.noaa.gov/pr/laws/esa/text.htm>.

² Tulchin Research, *Poll Finds Overwhelming, Broad-Based Support for the Endangered Species Act Among Voters Nationwide*, July 6, 2015, <http://www.defenders.org/publications/Defenders-of-Wildlife-National-ESA-Survey.pdf>.

³ Hart Research, *CAP Energy/Environment/Climate Voters Survey*, Dec. 2016, <https://cdn.americanprogress.org/content/uploads/2017/01/18040011/FI-CAP-Energy-Enviro-Dec2016.pdf>.

Partly because of this flexibility, the ESA has accommodated many human activities. For example, a recent peer-reviewed study by ESA experts at Defenders of Wildlife revealed that between 2008 and 2015, the FWS conducted over 88,000 consultations under Section 7.⁴ Out of those consultations, only two were deemed to "jeopardize" a species and neither project was stopped. Administrative adjustments to the ESA over the years have increased flexibility for developers and private landowners alike, while reaffirming its foundational goal of species conservation and recovery.

The drafters of the ESA also recognized that successful species conservation and recovery must rely on sound science, and thus required that all key decisions made under the ESA be based on the best available science. This requirement ensured there would be no political interference with identifying, protecting and recovering threatened and endangered species. The 2015 Tulchin poll showed that by a margin of nearly 4-to-1, a strong majority of voters said that decisions about which species should be protected under the ESA should be science-based and made by FWS biologists, rather than Congress.⁵ With a March for Science scheduled on Earth Day this year, it's clear that public support for science-based research in policymaking is stronger than ever.

The strong, clear values underlying the ESA are as American as apple pie and its goals are just as sacrosanct as they were when the law was enacted in 1973. Just imagine – without the ESA, we would not have recovered our national symbol: the bald eagle. And countless other species important to the fabric of this nation would be lost forever. As stewards of our natural heritage, it is our duty to continue the critical work to fulfill the ESA's purpose and protect our natural wildlife heritage for generations to come.

The ESA has Achieved Great Success

The ESA's prescient vision is surpassed only by its on the ground successes. The statute has been incredibly successful in achieving one of its primary goals – preventing species extinction. In its 44-year history, only 10 listed species have been officially declared extinct. According to the FWS's data, that translates to a 99 percent success rate in preventing the extinction of threatened and endangered species protected by the ESA. Scientists have predicted that 227 species would have gone extinct by 2006 if not for the conservation measures of the ESA.⁶

The ESA has also made significant progress in achieving its goal of species recovery. Forty-seven species have been removed from the endangered species list due to recovery, including the iconic bald eagle, peregrine falcon, American alligator and brown pelican. Before the bald eagle became one of the first species to receive protections under a precursor to the ESA in 1967, biologists

⁴ See Malcom, Jacob W.; Li, Ya-Wei, *Data contradict common perceptions about a controversial provision of the US Endangered Species Act*, Proceedings of the National Academy of Sciences, Dec. 29, 2015, available at: <http://www.pnas.org/content/112/52/15844>.

⁵ See Tulchin, note 2.

⁶ See Goble, Dale D.; Scott, J. Michael; Davis, Frank W., *The Endangered Species Act at Thirty: Volume 1*, Island Press, 2006, p. 31.

estimated that there were barely 400 breeding pairs left in the continental United States.⁷ As of 2009, that estimate stands at over 15,000 breeding pairs, with an additional 15,000 pairs in Alaska.⁸

Species delistings increased significantly under President Barack Obama, a true testament that, with time and attention, many species can and do recover if protected by the ESA. During its eight-year tenure, the Obama administration removed a record-setting twenty-nine species from the endangered species list – more than all previous administrations combined. In 2015, the FWS found that the Delmarva fox squirrel and the Oregon chub had both recovered. In 2016, the Service delisted sixteen species, including the Columbia whitetail deer, nine humpback whale populations, a Texas plant and three subspecies of Island Fox located on California’s Channel Islands. The ESA has also made significant strides in bringing endangered species back from the very brink of extinction, including the gray wolf, the wood bison, the California condor and the black-footed ferret.

Despite being a miraculous antidote to extinction, the ESA cannot make miracles happen overnight. For many species, recovery takes a long time, particularly those clearly on the brink of extinction when finally afforded the protections of the ESA. For certain species, gestation periods are particularly long and birth rates are low. For example, Florida manatees usually bear one calf every 13 months, and intervals between births range from two to five years.⁹ Similarly, orcas typically bear just one calf at a time and the gestation period lasts for 15 to 18 months.¹⁰ Grizzly bears are one of the slowest reproducing land mammals, with an extremely brief mating season and a 4-month delay of the implantation of eggs in the female’s uterus. For other species, a pernicious and unforeseen threat such as white-nose syndrome plaguing numerous bat species may block an otherwise steady path to recovery.

On the other hand, there have been several instances where the protections of the ESA have allowed biologists to address some discrete threat to a species, allowing delisting to occur relatively quickly. For example, the FWS was able to delist the San Miguel, Santa Cruz and Santa Rosa Island foxes after only 12 years of ESA protection as a result of a focused island fox recovery program that included captive breeding and reintroduction of foxes, removal of resident golden eagles, re-establishment of bald eagles and removal of non-native ungulates.¹¹ This story provides a compelling example of how a coordinated, organized and highly focused strategy under the ESA can recover a highly endangered species.

The ESA is successful partly because it enables private conservation partners and non-profit organizations to also play a vital role in recovering species. These mission-based entities have bolstered the agencies’ work to implement the ESA and recover threatened and endangered species. At Defenders of Wildlife, we have worked hard both in the field and in the policy realm to conserve species and their important habitat and improve the effectiveness of the ESA. For decades, we have

⁷ U.S. Fish and Wildlife Service, *Bald Eagle Removed from Endangered Species List*, March 18, 2011, <https://www.fws.gov/pacific/ecoservices/BaldEagleDelisting.htm>.

⁸ U.S. Fish and Wildlife Service, *Bald and Golden Eagles: Population demographics and estimated sustainable take in the United States, 2016 update*, April 26, 2016, <https://www.fws.gov/migratorybirds/pdf/management/EagleRuleRevisions-StatusReport.pdf>.

⁹ National Wildlife Federation, *West Indian Manatee Fact Sheet*, <https://www.nwf.org/Wildlife/Wildlife-Library/Mammals/West-Indian-Manatee.aspx>.

¹⁰ Defenders of Wildlife, *Orca Basic Facts*, <http://www.defenders.org/orca/basic-facts>.

¹¹ National Park Service, *Channel Islands*, <https://www.nps.gov/chis/learn/nature/island-fox.htm>.

been working with lawmakers, conservation professionals, local communities and private landowners to develop innovative and effective methods for minimizing conflicts with imperiled predators, including wolves and bears. Our coexistence program has helped ranchers across the West address the presence of predators on the landscape through nonlethal deterrents, better animal husbandry practices and other innovative tools, minimizing conflict and building social acceptance for these species. In the Southeast, we have worked closely with the state of Florida, other conservation groups and private landowners to pave the way for recovery of the Florida panther while minimizing conflicts and increasing social tolerance throughout the densely populated state. And we have just recently launched the Center for Conservation Innovation to pioneer innovative, pragmatic solutions to enhance the effectiveness of endangered species conservation in the United States. For example, we are leading the way to develop the first web-based ESA recovery plan, which can be updated readily and regularly to reflect the best available science on a species. By relying on the power of data analytics, technology, and interdisciplinary approaches, the Center for Conservation Innovation will help federal and state agencies, as well as other interested stakeholders, take advantage of science and technological advances to improve how they implement the ESA.

The ESA Does Not Need to be “Modernized” through Legislation

As detailed above, the ESA has proven highly successful. It does not need legislative changes to meet its goals. Over the years, administrations of both political parties have been committed to improving the way the ESA is implemented. There have been numerous successful efforts to truly improve the efficiency and effectiveness of the ESA through administrative actions. The ESA’s flexible nature lends itself to these actions, all while staying committed to the purposes and goals of the law itself.

While I was the Director of the FWS, I oversaw the issuance of several agency rulemakings that increased the ESA’s flexibility and provided more certainty to private landowners. For example, the No Surprises Assurance rule increased landowner participation in habitat conservation plans by several fold, while the policies on safe harbor agreements and candidate conservation agreements with assurance remain some of our most popular voluntary landowner conservation tools.

Under President Obama’s Administration, the FWS issued numerous administrative reforms to improve the ESA’s efficiency and conservation effectiveness. For example, the seven-year listing workplan enables the agency to prioritize listing reviews for over 300 candidate and petitioned species, while providing the public with greater clarity and predictability about the timing of listing determinations.¹² FWS also recently revised its listing petition rule, giving states a greater role in informing FWS’s 90-day petition findings.¹³

Republican administrations have also finalized important updates to ESA policies and regulations. For example, in 2008, the FWS finalized guidance on the “recovery crediting system” to encourage voluntary recovery actions. And the Reagan Administration issued guidance on how the agencies should prioritize recovery and listing decisions. For most species, conserving them is all about conserving their habitat. For years, every administration has worked with mitigation banks to ensure

¹² U.S. Fish and Wildlife Service, *The Service’s National Listing Workplan*, Last updated Sept. 7, 2016, https://www.fws.gov/endangered/improving_ESA/listing_workplan.html.

¹³ U.S. Fish and Wildlife Service, *Petition Regulations*, Last updated Dec. 8, 2016, https://www.fws.gov/endangered/improving_ESA/petition-regulations.html.

that the habitat species need to recover is identified and protected. These private-public partnerships again demonstrate the ESA's flexibility to conserve species through creative, pragmatic policy improvements.

In contrast with these administrative improvements to the ESA, the mounting volume of ESA-related legislation proposed by Congress over the past decade has all sought to roll back and undermine ESA protections. In my experience working on ESA policy over the course of several decades, the professed desire to "modernize" the ESA has almost always been code to push forward an agenda to weaken or gut the nation's premier and most effective wildlife conservation law. That agenda – backed by special interests – ignores the public value of wildlife conservation and unequivocally violates the original purpose of the ESA. I'm concerned that legislators who talk about the need to modernize the ESA really seek to weaken its ability to conserve imperiled species. At least two members of the 115th Congress have expressed an outright desire to repeal the ESA.¹⁴ As long as our country is still committed to species conservation and recovery, there is no need to amend the law through legislation. Instead, Congress should focus on fully funding the agencies so that they can implement the ESA more effectively and continue their important work to fulfill its goals.

Of the 130 legislative proposals introduced last Congress aimed at updating the ESA, not a single one would have improved species conservation.¹⁵ Many would have stripped existing protections or blocked future protections for at-risk and listed species, accelerating those species' decline and likely condemning them to extinction. Remarkably, none of the delisting proposals initiated by Congress would assure funding to the states that would be left in charge of conserving these threatened and endangered species with limited resources and weaker protections under their state ESAs. The ESA is already starved for funding. Removing protections under the ESA and the federal support that accompanies those protections would most definitely send some of these species spiraling down the path of extinction.

Other legislative proposals would have interfered with the ESA's science-based listing process, including by redefining "best available science" to automatically include all data submitted by states, localities and tribes, regardless of the quality of the data. Another category of proposals would interfere with the ESA's science-based listing process by injecting economic considerations into listing determinations. While the agencies already consider economic considerations when they designate critical habitat, those considerations are strictly prohibited as part of the listing decision. Economic considerations must not factor into science-based determinations about whether a species needs protections under the ESA. Science informs us whether a species is threatened or endangered with extinction, not politics, economics or personal desire.

The ESA's citizen lawsuit provision has been another target of proposed legislative "fixes." The ESA's citizen lawsuit provision allows members of the public to hold federal agencies accountable to Congress's directives in the ESA through the federal court system. Judicial review is an essential part of the checks and balances within the federal government to ensure that laws enacted by Congress

¹⁴ See LA Times Editorial Board, *GOP water bill in Congress should be rejected*, July 10, 2015, <http://www.latimes.com/opinion/editorials/la-ed-water-bills-20150710-story.html>; Zaffos, Joshua, *House Republicans want to 'repeal and replace' the ESA*, High Country News, Dec. 28, 2016, <http://www.hcn.org/articles/house-republicans-may-try-to-repeal-and-replace-the-endangered-species-act>.

¹⁵ See Defenders of Wildlife, *Summary of Legislative Attacks on the Endangered Species Act in the 114th Congress*, Dec. 21, 2016, <http://www.defenders.org/publications/Chart-of-ESA-Attacks-in-114th-Congress.pdf>.

are properly implemented. By including an explicit mechanism for reviewing agency decisions, the drafters of the ESA wisely intended the courts – not Congress – to resolve disputes over the agencies’ implementation of the law.

The existing structure of the ESA works well to meet its purpose – the conservation of at-risk wildlife and plant species. Any necessary reforms to improve its effectiveness and efficiency can and should be carried out by the wildlife agencies that implement the law. Congressional interference in science-based decisions about how to conserve species would only serve to undermine the nation’s ability to conserve imperiled species, and is strongly opposed by the American public. By focusing on funding the ESA instead of weakening it, Congress could remain committed to the goals of the ESA and provide more certainty for the regulated community waiting for decisions on permits and plans.

The ESA is Not Broken – it’s Starved

It is clear that more work could and should be done to provide protections for those species that need it, to expeditiously respond to requests for permits and impact decisions and to successfully recover listed species. What the ESA really needs is more funding so that the federal agencies and states can carry out important conservation programs and fully implement the ESA. Congress must help accomplish this goal by adequately funding the federal agencies that play a role in species conservation.

Federal spending on recovery actions under the ESA has long been severely insufficient. A 2002 study estimated that current funding is only 20 percent of what the authors estimate is required to carry out the work of endangered species recovery.¹⁶ The agencies desperately need more funding to develop species recovery plans and implement species recovery actions. Over 400 U.S. listed species do not currently have recovery plans. This gap in recovery funding is unfortunately only widening, as congressional appropriations for recovery have not kept pace with the number of listed species, especially after adjusting for economic inflation.

Funding for the ESA permitting program has also failed to keep pace with the addition of newly-listed species. Because of inadequate funding, American businesses and landowners face delays in requests for ESA permits to carry out activities ranging from road construction to bridge repairs to housing developments and other land use activities. It is imperative for FWS to have the resources to properly evaluate these activities for their effects on species recovery, so that the ESA can accommodate conservation and human activities simultaneously.

In addition, to truly stop the decline of at-risk and listed species at its origin, adequate funding to conserve their habitat is essential. Congress must fully fund the Land and Water Conservation Fund and substantially increase funding for the Recovery and Habitat Conservation Plan Land Acquisition Programs for states under the Cooperative Endangered Species Fund as well as for other habitat conservation programs, including those under the Farm Bill which is up for reauthorization in 2018. The agencies also need adequate funding to evaluate whether declining species should be listed and

¹⁶ See Miller, Julie K.; Scott, Michael J.; Miller, Craig R.; Waits, Lisette P., *The Endangered Species Act: Dollars and Sense?*, BioScience, Feb. 1, 2002, <https://academic.oup.com/bioscience/article/52/2/163/341363/The-Endangered-Species-Act-Dollars-and-Sense>.

to take steps, in partnership with the states and other stakeholders, to conserve them while they await decisions.

If this committee is truly committed to conserving at-risk and listed wildlife and plant species, it should work with members of the Appropriations Committee to ensure that the ESA is fully funded – not draft legislation to “fix” or “modernize” a hugely important, wildly successful and popular law.

The Role of States in Conserving Threatened and Endangered Species

States have a very powerful and important voice in determining the fate of species – both before and after species are listed. The ESA is the law of last resort in species conservation. It was enacted to ultimately prevent species from going extinct after they are deemed threatened or endangered using the best available science, and to recover those species. Until the ESA is deemed necessary, states have primary authority and responsibility for protecting and managing their native fish, wildlife, and plants and their habitats. Often, a listing comes only after the species has declined for decades and state management in accordance with state laws and regulations are deemed insufficient to avoid extinction.

Species often come under the protections of the ESA after years of chronic underinvestment in habitat conservation at the state level. The lack of state funding spent on conserving non-game species puts an increasing pressure on the ESA, causing the list of endangered species to increase rather than decrease. By then, some of the species have declined so much that recovery becomes far more difficult and expensive. States can help stave off species decline by increasing their own funding for species and habitat conservation. A commitment by states to fund upstream solutions could prevent species from being listed in the first place, saving money in the long run. Innovative upstream funding initiatives to conserve habitat and ultimately species are essential to minimize the need for the ESA to step in and provide necessary protections.

A prime example of how states have achieved successes in species conservation is through the State Wildlife Grants Program, which provides federal funding to a variety of conservation needs that are identified within a State’s Wildlife Action Plan.¹⁷ Each State Wildlife Action Plan identifies “species of greatest conservation concern” and outlines steps needed to conserve those species before they become rare and costly to protect. However, more funding is still needed. States should recommit to increasing their spending on conserving the diversity of wildlife – not just the game species.

Recently, eleven western states played a critical role as partners in an unprecedented collaboration led by the federal government to conserve the imperiled greater sage-grouse. States partnered with the FWS, the Bureau of Land Management, private landowners and other stakeholders to reach an agreement to improve the management of over 60 million acres of the Sagebrush Sea – a little known, but vitally important landscape to hundreds of species, outdoor recreation, western communities and sustainable economic development. This historic, national strategy would not have been happened without the pressure of a potential ESA listing. And in the end, the FWS determined that because of this National Greater Sage-Grouse Planning Strategy, the agency did not have to list the bird at that time. Implementation of the Strategy will be critical to ensuring the greater sage-

¹⁷ See Association of Fish and Wildlife Agencies, *State and Tribal Wildlife Grants Program: 10 Years of Success*, Sept. 2011, http://www.fishwildlife.org/files/StateWildlifeGrants_10YearSuccess-Report.pdf.

grouse is sustained. If commitment to the Strategy wanes or is undermined, it is virtually certain that the bird and possibly other species will need the protection of the ESA to survive.

When a species does come under the protections of the ESA, states continue to play a significant role as collaborative conservation partners. Federal agencies are required to use state expertise and solicit the information and participation of state agencies in all aspects of the recovery planning process, including implementing recovery plans. State agencies have the authority to carry out many of the actions identified in recovery plans and are in an excellent position to do so because of their close working relationships with local governments and landowners.¹⁸ States can receive federal funding to implement recovery actions through grants under section 6 of the ESA. These grants support a variety of voluntary conservation projects for listed, recently delisted, and candidate species. In addition, data collected and maintained by state agencies is important to ensuring the best available science is used in all federal agency decision making, from listing to permit issuance, to recovery planning and implementation.

However, the ultimate responsibility under the ESA lies with the federal government, acting through FWS and the National Marine Fisheries Service (NMFS), to make science-based decisions about the status of imperiled species and actions necessary to ensure their continued existence and ultimate recovery. That responsibility must not be diminished or undermined, as some have suggested. The current federal role is critically necessary and has proven effective at taking up the arduous – and sometimes controversial – work to carry out the ESA’s mission of conserving threatened and endangered plant and wildlife species. Just as this country has committed to civil rights for citizens, it has also made a national commitment to conserve species under the ESA. Imperiled species deserve that support and should not depend on the sentiments or politics of particular states. The federal government is the appropriate authority to ensure that at-risk species are conserved according to the best available science under the ESA, rather than local economic and political considerations.

Conclusion

The conservation values enshrined in the ESA remain strong today, with 90 percent of the American voting public supporting this visionary law that is respected by countries well beyond our borders. Given the ESA’s flexibility and its broad delegation of implementation authority to the federal agencies charged with its oversight and implementation, there is no need to update the ESA through legislation. Any true improvements to the law can be achieved through administrative actions. Congress should instead consider focusing on ways to fully fund the ESA so that the FWS, NMFS and other engaged federal agencies can implement it more effectively.

When Congress enacted the ESA over 40 years ago, it made a commitment to future generations to protect and restore at-risk species and their habitat. As this committee considers proposed changes to the Act, please ask yourselves whether you are upholding that commitment. Ask yourselves whether the proposed changes would actually help meet the ESA’s goals rather than undercut species protections.

Thank you for considering my testimony. I would be happy to answer any questions.

¹⁸ See U.S. Fish and Wildlife Service, *Interagency Policy Regarding the Role of State Agencies in ESA Activities*, Last updated Feb. 22, 2016, <https://www.fws.gov/endangered/laws-policies/policy-state-agencies.html>.