Public Comment on Revision of the Regulations for Prohibitions to Threatened Wildlife and Plants FWS-HQ-ES-2018-0007

submitted by

Property and Environment Research Center (PERC)
Bozeman, Montana

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Summary

- The proposal by the Fish and Wildlife Service to revise the regulations that extend most of the prohibitions for activities involving endangered species to threatened species would encourage states and landowners to recover threatened species before they reach endangered status.
- Restoring the Endangered Species Act's distinction between endangered and threatened species would remove barriers to projects involving threatened species, including habitat improvement projects. The result would be greater incentives for conservation and, ultimately, faster and more widespread recovery of listed species.
- Because the proposed reforms will not alter the regulatory restrictions for endangered species, they will not risk the statute's effectiveness at preventing extinctions.

Introduction

The Property and Environment Research Center (PERC) respectfully submits this comment for the the Fish and Wildlife Service regarding the revisions it proposes to regulations that extend most of the prohibitions for activities involving endangered species to threatened species. PERC is a nonprofit conservation research institute located in Bozeman, Montana, that explores market-based solutions to environmental problems. Founded in 1980, PERC's mission is to improve environmental quality through markets, entrepreneurship, and property rights. PERC's staff and associated scholars conduct original research that applies free-market principles to resolving environmental disputes in a cooperative manner. This comment draws on a PERC report by research fellow Jonathan Wood, "The Road to Recovery: How Restoring the Endangered Species Act's Two-Step Process Can Prevent Extinction and Promote Recovery," published in April 2018.[1]

The Endangered Species Act has proven effective at preventing extinction but not at promoting species recovery. Less than 1 percent of species ever listed under the act have gone extinct. Yet only

[1] *See* Jonathan Wood, *The Road to Recovery: How Restoring the Endangered Species Act's Two-Step Process Can Prevent Extinction and Promote Recovery*, PERC Policy Report (April 2018), *available at* https://www.perc.org/2018/04/24/the-road-to-recovery.

2 percent of listed species have recovered and come off the list. Because we care about preventing extinction and recovering endangered species, the challenge is to find reforms that preserve what the Endangered Species Act does well while boosting incentives for recovering species.

The statute provides for the listing of two categories of species: "endangered" species, which are currently at risk of extinction, and "threatened" species, which are at risk of becoming endangered in the foreseeable future. When Congress passed the act in 1973, it envisioned states taking the lead to protect threatened species, with strict federal regulations against "take" reserved for endangered species. In 1975, however, the Fish and Wildlife Service issued a regulation extending the take regulation to threatened species too, eliminating the distinction between the two categories.

Take is defined so broadly that it can include activities intended to help species and can complicate state and private efforts to recover species. Under the current approach, landowners who provide habitat to listed species receive no benefit; instead, they are penalized through costly regulatory burdens such as restrictions on land use, reduced property values, and costly permitting requirements.

Revising the way the Endangered Species Act is implemented by restoring the distinction between endangered and threatened species would encourage proactive species recovery. If the statute's distinction between the two categories was restored, states and landowners would be encouraged to recover threatened species before they reach endangered status. A threatened listing would serve as a signal that a species was at risk of becoming endangered, encouraging states, landowners, and other groups to recover the species.

Innovative and collaborative conservation programs would be easier to develop because landowners would have greater incentives to participate. Landowners who recover endangered species would be rewarded for their efforts by reduced regulatory burdens once a species' status was changed to threatened, creating a powerful incentive to recover endangered species. Crucially, the Endangered Species Act's take prohibition would continue to protect endangered species from extinction.

When considering the proposed reforms, the Fish and Wildlife Service should take the following observations into consideration:

1. Restoring the Endangered Species Act's distinction between endangered and threatened species would encourage states and landowners to recover threatened species before they reach endangered status.

Private landowners are essential to the conservation and recovery of endangered species because they provide habitat for the overwhelming majority of listed species.[2] Consequently, creating

[2] *See* Richard Stroup, *The Endangered Species Act: Making Innocent Species the Enemy*, PERC Report (1995).

incentives for landowners to conserve and enhance habitat is critical to promoting species' recovery.

Unfortunately, the Endangered Species Act, as currently implemented, gets the incentives backward. Landowners who provide habitat to listed species receive no benefit; instead, the statute penalizes them by imposing costly regulatory burdens such as restrictions on land use, reduced property values, and costly permitting requirements. By making a threatened or endangered species a liability rather than an asset, the statute can encourage property owners to adopt a strategy of "shoot, shovel, and shut up"—which, as its name suggests, does not end well for the listed species.

Treating endangered and threatened species the same confounds the problem by making property owners indifferent to how vulnerable a species is once it is listed. Under current regulations, a property owner has few incentives to help recover an endangered species because she will face the same regulatory burdens even if the species' prospects improve and its status is changed to threatened. There's no reward for the landowner, unless she can recover the species to the point that it can be completely delisted, which has proven a rare occurrence.

Likewise, once a species is listed as threatened, the same intense regulatory burdens apply to landowners regardless of whether the species is imminently at risk of extinction or faces more remote threats decades in the future. More alarmingly, as a species' status worsens, the easiest means of escaping those regulatory burdens may be for the species to go extinct, providing perverse incentives for landowners.

Returning to Congress's approach of regulating endangered and threatened species differently would improve incentives by aligning landowners' interests with those of species. Recovery efforts can be difficult, expensive, and time consuming. They also often require the participation of private landowners to supply critical habitat. For property owners to bear these costs there must be some upside when a species' prospects improve. If landowners knew that success would result in reduced regulatory burdens, the act would be more likely to provide a significant "carrot" to entice recovery efforts.[3]

Similarly, returning to Congress's graduated approach to regulating listed species would likely encourage landowners to work with states and conservation groups to proactively conserve threatened species. Under Congress's original two-step approach, a threatened listing would serve as a signal that a species was at risk of becoming endangered, encouraging states, landowners, and other groups to recover the species. If recovery efforts did not occur, the species could continue to slide, triggering increased regulatory burdens—"the stick." Collaborations would be easier to develop because landowners would have greater incentives to participate, and no federal permit would be required if the conservation efforts require minor or incidental take. Together, these factors could dramatically reduce the costs for states and conservation groups to develop innovative partnerships with habitat owners.

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[3] In theory, this could happen under the status quo by the adoption of a special rule to relax those regulations for a particular species. But such rules require a costly and time-consuming rulemaking process, making them rare and thus their adoption unpredictable for landowners.

Although a return to the statute's two-step approach will not immediately convert rare species from a liability into an asset, it would empower states and conservation groups to move in that direction. Rare species would remain a liability under federal law, with the extent of that liability varying based on whether the species is listed as endangered or threatened. But by improving landowners' incentives to participate in conservation efforts with states and conservation groups, the ultimate result could be increased importance of state- and environmentalist-led market-based conservation. Consequently, this reform would complement ongoing state efforts to promote more collaborative means of protecting species through positive incentives.

In 2014, for instance, the Association of Fish and Wildlife Agencies established a Blue Ribbon Panel consisting of business and conservation leaders to design a 21st-century model for conserving wildlife.[4] The panel's recommendations have been incorporated into the bipartisan American Wildlife Recovery Act, a bill that would provide increased funding for state-led innovative conservation efforts from oil and gas revenues.[5] Returning to the Endangered Species Act's two-step approach would make such funding more effective by clearing red tape and increasing landowners' willingness to cooperate.

For the same reason, this reform would also increase the effectiveness of private environmental groups' efforts to promote collaborative conservation. Restoring the Endangered Species Act's two-step approach would expand the number of opportunities for environmental groups to partner with states, industry, and landowners to pursue innovative conservation programs. It would also lower the costs of securing landowner participation by eliminating the federal pre-approval process for threatened species and increasing the willingness of industry and property owners to contribute to the effort.

2. Restoring the statute's distinction between endangered and threatened species would remove barriers to projects involving threatened species, encouraging conservation and recovery of listed species.

To its credit, the Fish and Wildlife Service has several discretionary programs that permit take in exchange for conservation benefits.[6] For instance, through habitat conservation plans, the agency

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[4] Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources, *Final Report and Recommendations* (Mar. 2016), *available at* https://www.fishwildlife.org/application/files/8215/1382/2408/Blue_Ribbon_Panel_Report2.pdf.

[5] H.R. 4647, Recovering America's Wildlife Act, 115th Congress (introduced Dec. 14, 2017); *see also* National Wildlife Foundation, *Recovering America's Wildlife Act*, *available at* https://www.nwf.org/Our-Work/Wildlife-Conservation/Policy/Recovering-Americas-Wildlife-Act.

[6] *See* U.S. Fish & Wildlife Service, *For Landowners: Safe Harbor Agreements*, https://www.fws.gov/endangered/landowners/safe-harbor-agreements.html; U.S. Fish & Wildlife Service, *For Landowners: Conservation Banking*, *available at* https://www.fws.gov/endangered/landowners/conservation-banking.html; and U.S. Fish & Wildlife Service, *Candidate Conservation: Candidate Conservation Agreements*, *available at* https://www.fws.gov/endangered/what-we-do/cca.html.

authorizes some amount of incidental take in exchange for conserving and improving habitat elsewhere.[7]

These discretionary options all have a common shortcoming: They require an uncertain, costly, and time-consuming federal pre-approval process. For instance, the Southern Edwards Plateau Habitat Conservation Plan, which was created for nine endangered species in Bexar County, Texas, took six years to negotiate and obtain federal approval.[8] For many projects, such a long delay is at best extremely costly and at worst a deal breaker.

The impacts of the costly and time-consuming approval process are not limited to economic development projects. Even efforts to conserve species can be discouraged or bogged down by the process. For instance, the costs and delays of federal take permits threatened to shut down hunting ranches responsible for growing large populations of three endangered antelope species until Congress passed a law exempting them from that process.[9]

The need for pre-approval in each of these options necessarily introduces substantial delay and uncertainty.[10] For example, an applicant must submit extensive application materials and undergo an environmental review by the agency. Preparing those materials is costly, and the time spent on them takes away from other productive endeavors. And all of this must be done with little or no certainty that the permit or plan will be approved. By increasing the costs of private conservation, this burdensome process can hinder private efforts to recover species. It can especially discourage conservation by property owners who are not intrinsically motivated to consider species, who may abandon projects that could otherwise incorporate environmental benefits.

Restoring the statute's distinction between endangered and threatened species would reduce these obstacles by removing barriers to projects involving threatened species, including habitat improvement projects. The result would be greater incentives for conservation and, ultimately, faster and more widespread recovery of listed species. For instance, habitat conservation projects that involve minor incidental take would no longer need to undergo the federal pre-approval process. And, even for endangered species, landowners would be more willing to navigate the

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[7] U.S. Fish & Wildlife Service, *Habitat Conservation Plans*, *available at* https://www.fws.gov/endangered/what-we-do/hcp-overview.html.

[8] *See* Brendan Gibbons, *Habitat plan approved to protect nine endangered species*, San Antonio Express-News (Dec. 29, 2015), *available at* https://www.expressnews.com/news/local/article/Habitat-plan-approved-to-protect-nine-endangered-6721825.php.

[9] *See* Terry L. Anderson, *When the Endangered Species Act Threatens Wildlife*, Wall Street Journal (Oct. 20, 2014), *available at* https://www.wsj.com/articles/terry-l-anderson-when-the-endangered-species-act-threatens-wildlife-1413846579.

[10] *See* Ya-Wei Li, *Section 4(d) Rules: The Peril and the Promise*, Defenders of Wildlife ESA Policy White Paper Series (2017). Li's report recommends administrative changes to allow for expanded use of so-called "special 4(d) rules" which exempt individual threatened species from the take prohibition to varying extents. Although Li correctly diagnoses the obstacles landowners face in seeking permits or habitat conservation plans, his proposal does not avoid them. Special 4(d) rules require an extensive notice-and-comment process that can take years, can get mired in litigation, and have no clear standards that conservationists, landowners, and states can rely on to make their case for one.

permit process if they knew that they would be rewarded by reduced regulatory restrictions if the recovery effort succeeds.

Take the monarch butterfly, a species currently being assessed by the Fish and Wildlife Service to determine whether it warrants protection under the Endangered Species Act.[11] A handful of organizations and investors have attempted to provide incentives to conserve the butterfly by establishing a habitat exchange.[12] The program provides financial rewards to farmers and ranchers who restore and conserve monarch butterfly habitat. This type of market-based program has the potential to align incentives of landowners and the species, but uncertainty around future agency actions with respect to the Endangered Species Act could threaten conservation prospects.

On the one hand, if the agency decides not to list the butterfly, then the impetus for landowners to conserve habitat for the species—and the funding that makes the program possible—may dry up. On the other hand, a threatened listing with full take prohibitions could generate bad will or even conflict with property owners, especially given that the species is known to occur in all lower 48 states. The result could be conflicts with owners of working lands that undermine the monarch butterfly conservation work already begun.

A threatened listing with either limited or no take regulation, however, could result in a much better outcome for property owners and the monarch butterfly alike. Such a listing would mean that more restrictive take prohibitions could still come into effect in the future if the species were to decline and become endangered. That would not only maintain and entrench powerful incentives for landowners to help conserve monarch butterfly habitat but would also circumvent much of the potential conflict that could undermine ongoing conservation efforts for the species.

In some ways, the Fish and Wildlife Service's proposed reforms would expand upon actions by the Obama administration to promote state and private conservation programs as a means of avoiding the need to list species under the Endangered Species Act.[13] The Policy for Evaluating Conservation Efforts when Making Listing Decisions (PECE), a Fish and Wildlife Service policy issued in 2003 but used to great effect by the Obama administration, permits the agency to forego listing a species if state and private conservation efforts are likely to reduce threats to the species.[14] For several controversial species, the agency used this authority to work with states, industry, property owners, and environmentalists to proactively conserve species, avoiding the need to list them and the regulatory burdens that would result.

These conservation partnerships provide powerful evidence that the desire to avoid burdensome regulatory restrictions can motivate states, property owners, and conservation groups to work

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[11] U.S. Fish & Wildlife Service, *Species Profile for Monarch Butterfly (Danaus plexippus plexippus)*, *available at* https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=I0WJ.

[12] *For more background, see* Monarch Butterfly Habitat Exchange, *available at* http://www.monarchhabitatexchange.org/.

[13] In addition to these collaborative efforts, the Obama Administration also adopted more Special 4(d) Rules than any prior administration. *See* Li, *Section 4(d) Rules: The Peril and the Promise*, Defenders of Wildlife ESA Policy White Paper Series (2017).

[14] U.S. Fish & Wildlife Service and National Oceanic and Atmospheric Administration, *Policy for Evaluation of Conservation Efforts When Making Listing Decisions*, 68 Fed. Reg. 15100 (Mar. 28, 2003).

together to conserve and recover species. However, these partnerships still face significant obstacles that could be avoided by restoring the Endangered Species Act's original two-step approach.

Because pre-listing conservation efforts must be planned and agreed to between the time a species is proposed for listing and a final decision, they are subject to a significant and artificial time constraint. The Endangered Species Act requires listing decisions to be made in about one year.[15] Due to resource constraints, that deadline is routinely missed, but listing supporters can sue to force the agency to decide whether to list a species as quickly as practicable.[16]

Consequently, whoever is leading a pre-listing conservation effort must get everyone to the table, develop a conservation strategy, secure funding, and prove landowners' willingness to participate—all within the short span between the federal agency initiating the listing process and making a final decision. If potential participants doubt that a pre-listing strategy can be completed in time—a likely concern for species that have generated conflict in the past—the effort may be abandoned in its infancy.[17]

The mad dash to finish a pre-listing conservation plan also makes it more difficult to anticipate potential issues that may arise in the future. Focusing on immediate and easily identified threats to species may work in the short term. But as markets, technology, and land uses change, new threats may arise and the potential listing may rear its head once again, as it has in the case of the dunes sagebrush lizard.[18] At that point, it will be another race against time, as a new conservation plan will have to be completed before the listing process concludes.

This time constraint compounds the difficulty of overcoming the substantial cost of conservation efforts and uncertainty among landowners. Depending on a species' needs, conservation efforts may cost tens of millions of dollars, including foregone productive land-use activities. Additionally, landowners may be skeptical whether the species would be listed without their cooperation or whether their efforts will succeed in avoiding a listing.[19]

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[15] 16 U.S.C. § 1533(b)(3).

[16] *See* Government Accountability Office, *Environmental Litigation: Information on Endangered Species Act Deadline Suits*, GAO-17-304 (Feb. 2017), *available at* https://www.gao.gov/assets/690/683058.pdf.

[17] Recognizing the difficulties of overcoming this time constraint, Congressman Gardner of Colorado proposed legislation to delay a listing decision on the greater sage grouse for five years. Bruce Finley, *Cory Gardner introduces act to delay endangered decision on grouse*, Denver Post (Apr. 22, 2015), *available at* https://www.denverpost.com/2015/04/22/cory-gardner-introduces-act-to-delay-endangered-decision-on-grouse/.

[18] *See* Jonathan Wood, *The Road to Recovery: How Restoring the Endangered Species Act's Two-Step Process Can Prevent Extinction and Promote Recovery,* PERC Policy Report (April 2018), *available at* https://www.perc.org/2018/04/24/the-road-to-recovery.

[19] The Service could list a species as threatened and adopt a special rule to relax the take prohibitions impacts on property owners. But, like the Service's other discretionary options, that approach is difficult for landowners to rely on, costly, and time-consuming. To issue such a rule, the Service would have to navigate the notice-and-comment rule making process, which has historically limited these rules to a handful per year.

Returning to Congress's two-step approach would eliminate the artificial time constraint by bringing this conservation planning within the Endangered Species Act process, rather than operating outside of it. Once a species is listed as threatened, states, industry, property owners, and conservationists would have the flexibility to develop and implement innovative conservation strategies and build the trust needed to make them effective. Participants would have the confidence that their efforts were necessary, because the species has already been declared as threatened. And conservation programs would have the time and flexibility to adapt to changing circumstances. As new threats arose, participants could incorporate measures to mitigate them, without having to rush to beat a listing decision.

The Fish and Wildlife Service would also have the benefit of watching these conservation efforts play out, rather than having to make a listing decision based on speculation. After a species is listed as threatened, the agency would not face a mandatory deadline to force premature analysis. So long as the species does not continue to slide to the point of becoming endangered, the agency could study the actual results of recovery efforts over time.

Similarly, this change would address environmentalists' concerns about the risk of backsliding under the PECE approach. According to that backsliding concern, the incentive for landowners to follow through on conservation efforts may be reduced once the decision not to list the species is announced.[20] A return to Congress' original design would solve this problem by allowing species to be listed as threatened without sacrificing state and private parties' flexibility to develop conservation plans. And because the species has been listed, the potential for species-specific regulations of take would serve as a continual incentive to follow through on these plans.

A final related action that the Fish and Wildlife Service may wish to consider is to revisit species currently listed as threatened to consider whether the take prohibition should be modified or lifted in select cases. If there are cases where the blanket take prohibition has failed to encourage efforts to conserve threatened species, then species-specific rules could be merited.

One such species could be the gopher tortoise. Construction has fragmented the habitat of the species and resulted in two distinct populations. The western population, in Alabama, Mississippi, and Louisiana, is listed as threatened. The eastern population in Florida and Georgia, however, remains a candidate for listing because the Fish and Wildlife Service declared that it warranted listing but was precluded by higher-priority species. Recognizing the consequences that a listing could bring, the states of Florida and Georgia developed plans to proactively preserve the species. Florida required developers whose projects would impact gopher tortoises to relocate the animals to suitable habitat. Georgia partnered with the Department of Defense, state agencies, state industry groups, and the Nature Conservancy on a $150 million project to conserve habitat.[21] The western

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[20] *See, e.g.,* Emily Sohn, *A Grand Experiment on the Grasslands*, Biographic.com (Mar. 13, 2018), *available at* http://www.biographic.com/posts/sto/a-grand-experiment-on-the-grasslands (quoting Ya-Wei Li of Defenders of Wildlife as asking "What incentive is there to enroll if there isn't a threat of listing?").

[21] *See* Jonathan Wood, *The Road to Recovery: How Restoring the Endangered Species Act's Two-Step Process Can Prevent Extinction and Promote Recovery*, PERC Policy Report (April 2018), *available at* https://www.perc.org/2018/04/24/the-road-to-recovery.

gopher tortoise population could benefit from a species-specific rule that encourages similar efforts.

Developing a plan to revisit current threatened listings would allow the Fish and Wildlife Service to identify species that might benefit from tailored take rules.

3. Because the proposed reforms would not alter the regulatory restrictions for endangered species, they will not risk the statute's effectiveness at preventing extinctions.

The Obama administration's pre-listing conservation efforts show that avoiding regulatory restrictions can be a powerful incentive for conservation. Thus, they suggest that a return to the statute's original approach of regulating endangered and threatened species differently would promote conservation and recovery. And because the reforms would reserve the take prohibition for endangered species, the law would continue to act as a backstop to prevent extinction for the most imperiled species.

Under the proposed reforms, landowners would have strong incentives to recover threatened species. If a threatened species continues to decline, it will be listed as endangered, and landowners will face far greater regulatory burdens than they would have by cooperating to conserve the species. Furthermore, the statute contains a mechanism to deal with bad actors without upending the incentives to conserve and recover species. The Fish and Wildlife Service is required to reassess listed species, including threatened species, every five years.[22] If during one of these five-year reviews the agency finds that some form of intentional take is significantly undermining a threatened species, it can adopt a regulation that narrowly targets that problem without criminalizing all forms of incidental take or otherwise undermining the incentives for voluntary conservation.[23] The mere threat that an agency may adopt such a regulation could be sufficient to motivate cooperation.[24] Because these reviews occur periodically after a threatened species has been listed, they will give states, conservationists, and property owners the necessary breathing room to develop and implement innovative conservation plans.

States could also intervene to ensure that threatened species are adequately protected, just as Congress intended. The form of those interventions may vary from state to state, with some states focusing on regulation while others provide positive incentives for conservation. Increasing the role

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[22] 16 U.S.C. § 1533(c)(2).

[23] 16 U.S.C. § 1533(d). Adopting tailored regulations for threatened species would require the U.S. Fish and Wildlife Service to show that some form of take is having a significant adverse effect on the species. Putting this burden on the agency would have the additional benefit of channeling regulation into the areas where it is most needed.

[24] That may sound like a return to the status quo, but it isn't. Under current practice, all take of threatened species, even minor instances of incidental take, is presumptively forbidden. Those restrictions can only be reduced by convincing the Service to adopt a narrower regulation for a species—a discretionary, bureaucratic process that suffers the same costs, delays, and uncertainties that have limited the impact of prior reforms.

of federalism in recovering species would enhance accountability, innovation, and experimentation, as states' roles in pre-listing conservation has shown.[25]

States have already expressed an interest in serving this role. After a two-year initiative to study ways to improve the Endangered Species Act, the Western Governors' Association recently concluded that there should be "greater distinction between the management of threatened versus endangered species in ESA to allow for greater management flexibility, including increased authority for species listed as threatened."[26] This interest is not limited to western states. Gordon Myers, the executive director of the North Carolina Wildlife Resources Commission and then-president of the Southeast Association of Fish and Wildlife Agencies, recently testified before a congressional subcommittee that the statute's two-step process should be restored to give states the flexibility needed to conserve and recover threatened species. "Congress intended that the states have the opportunity to lead the management of threatened species, including the provision of 'take' as a means of conservation of the species," Myers noted. But by promulgating "a default rule" that applied the same restrictions for endangered and threatened species, the Fish and Wildlife Service "essentially eliminated the distinction between the two listing categories."[27]

Conclusion

Since the Endangered Species Act was enacted, few species protected by it have gone extinct. That's reason for celebration. But we want the statute to do more. We want endangered species to recover as well. Achieving that goal, without sacrificing the law's success at preventing extinction, requires reform that aligns the incentives of private landowners with the interests of rare species while maintaining regulatory protections for endangered species.

Returning to Congress's original two-step approach of connecting the burdens of regulation to the degree of risks species face would accomplish that needed reform. By imposing more onerous burdens as species approach extinction, and relaxing those burdens as they recover, this reform will encourage landowners to conserve and recover species. And by maintaining the same

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[25] In enacting the Endangered Species Act, Congress wished to encourage this federalism approach to species. In addition to relying on state innovation to protect threatened species, the statute also provides for cooperation agreements allowing the states to take over implementation of the federal agency's responsibilities. 16 U.S.C. § 1535. More recently, the service amended the regulations for listing petitions to provide for earlier information sharing between states and federal agencies and a greater state role in the process of deciding whether to list species. 81 Fed. Reg. 23,448 (Apr. 21, 2016).

[26] Western Governors' Association, *Policy Resolution 2017-11: Species Conservation and the Endangered Species Act*, *available at* http://westgov.org/images/editor/2017-11_Species_Conservation_and_the_ESA_for_web.pdf.

[27] Testimony of Gordon Myers, Executive Director N.C. Wildlife Resources Commission, President Southeast Association of Fish and Wildlife Agencies, Before the Senate Committee on Environment and Public Works, *Oversight: Modernization of the Endangered Species Act* (Feb. 15, 2017), *available at* https://www.epw.senate.gov/public/_cache/files/e/6/e6a208cc-6cc8-4503-98d2-8d9a97d9065e/F9D83BCB0EA63DA51B32038D993779E3.testimony-for-gordon-myers-before-senate-epw-15-feb-2017.pdf.

protections for endangered species that exist today, that reform will not come at the expense of the statute's effectiveness at preventing extinction.

Recent voluntary conservation efforts provide powerful evidence that such reform would benefit species. If the incentive realignment created by this reform were reinforced by other public and private incentives to encourage proactive conservation, the benefits would be even greater.