

**STATEMENT OF THE  
AMERICAN FARM BUREAU FEDERATION  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON NATURAL RESOURCES**

**Legislative Hearing on  
H.R. 6344, H.R. 6360, H.R. 6346, H.R. 6354, H.R. 6345, H.R. 3608.  
H.R. 6364, H.R. 6356, and H.R. 6355**

**Presented by  
JAMIE JOHANSSON, PRESIDENT  
CALIFORNIA FARM BUREAU  
Wednesday, September 26, 2018**

Thank you Chairman Bishop and Ranking Member Grijalva for the opportunity to testify. I am Jamie Johansson, President of the California Farm Bureau Federation. We represent more than 39,000 members across 56 counties contributing the largest agricultural economy of any state in the nation. Our farmers and ranchers provide food, fiber, and feed to our local communities, to the nation, and across the globe.

In California, battles over everything from spotted owls to delta smelt have reshaped rural communities, and sadly, have created tremendous industries of conflict. All this with little to show in the way of improvements for the species.

This culture of conflict and lack of success is evidence that conservation is at a crossroads. We can either continue down the path of escalating conflict and seemingly endless cycles of listings and lawsuits, or we can take a long hard look at what the past forty-five years of implementing the Endangered Species Act (ESA or “the Act”) can teach us as we strive to make the ESA work better. The law can be better for species, whether listed or unlisted, and better for people, whether farmer or conservationist.

There are three reasons this is the case.

First, we all value protecting species from extinction. Our disagreements are not about the goal of species protection, but the best way to achieve that goal.

Second, there is widespread acknowledgement that the ESA can be improved to work better for species and people.

Third, the key to the ESA working better is improving opportunities for collaborative conservation by reducing conflict and increasing regulatory certainty. The bills under deliberation today move in the direction of bringing regulatory certainty.

Regarding my first point, I wish to state that we are not here to question the Act's fundamental goal of striving to conserve species from extinction. This goal will not and should not change. What we grapple with today is not whether we should conserve species from extinction, but how we should conserve species from extinction.

To expand on my second point. I believe that there is widespread acknowledgement that the ESA could work better for both species and people. Though everyone may not state it precisely that way, if you look at how the issue is discussed, the conservation groups are increasingly acknowledging the need to take care of landowners who are well positioned to help species. Meanwhile, farmers and ranchers believe they need to take care of the species if we want to take care of our future. While we all may say it differently, there is a common message that the ESA can and should be functioning more effectively for both species and people.

This convergence of messages from what traditionally has been sparring groups, was perhaps best reflected in the Western Governors' Association's "Initiative on Species Conservation and the Endangered Species Act." This thorough and inclusive process, in which Farm Bureau was an active participant, brought together stakeholders on all sides of the issue. The initiative involved several years exploring ideas "for improving the efficacy of the Endangered Species Act," and included all manner of positions and viewpoints. A common theme was that improvements could, and should, be made.

This leads me to my third point, and the principle reason I am here today. I believe that if the ESA is to work better for species, it must work better for people. This is the reason for your convening today, to consider legislation that could provide improvements in areas where the existing law has created unnecessary and unproductive conflict. What we know is that to actually take care of species on the land, we need to work with, not against, the people on the land. For this to happen, we must increase the opportunities for collaboration and decrease the opportunities for conflict.

Currently, landowners view the ESA as a threat. The history of the ESA has generally shown landowners that having species or habitat creates a lot of risk and provides no real benefit. Given that half of listed species spend 80% of their lives on private land, this situation offers little opportunity for people or species.<sup>1</sup>

Perhaps no species is more symbolic and perhaps symptomatic of the ESA's challenges than the northern spotted owl. Listed as threatened in 1990, this listing kicked off the timber wars that reshaped the Pacific Northwest and the ESA. Thriving rural communities lost a significant portion of their economic base because of the costs and restrictions placed on timber harvest. As

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<sup>1</sup> U.S. Fish & Wildlife Service, "Our Endangered Species Program and How It Works With Landowners," 2009. <https://www.fws.gov/endangered/esa-library/pdf/landowners.pdf>.

much as any other species, the spotted owl proved to landowners that endangered species and their habitat were major hazards to be avoided at all costs.

All this, and yet the spotted owl is still not doing well. The primary threat now appears to be the barred owl – a species that over the past century has expanded its range from the east, outcompeting, breeding, and killing the spotted owl.

In sum, the listing harmed our rural communities. The ensuing battles weaponized the Endangered Species Act and led to the creation of a massive industry of conflict. This resulted in turning the ESA into a feared threat to landowners. Currently, the owl is worse off than ever.

Several more examples illustrate the very real conflicts in California, both those experienced in the past and problems we anticipate in the future.

#### Delta Smelt: A Failed System

Another example of extraordinary harm, without commensurate benefit, is the crippling effect litigation over the delta smelt has had on California's water system. Questionable science has focused regulatory controls on California's state and federal water projects because this is the easiest "knob" the regulators have had to turn. Litigation-focused advocacy groups have also turned the smelt into a nuclear weapon in court to further their own narrow agenda.

The real causes of the smelt's decline, however, are much more complex than just the state and federal projects. In fact, one of the biggest causes appears to be an invasive clam that has wiped out the smelt's primary food supply. While there's not a lot we can do about the clams, the best science today suggests that any threat from the projects can be managed without eliminating the water supply to cities and farms. Working with water users and landowners to improve habitat and food supply the more effective "knobs" we should be turning.

#### Salmon: Lost Opportunity

In northern California, farmers and ranchers worked for decades to make improvements beneficial to salmon and steelhead. Millions have been invested in putting in fish screens to prevent juvenile salmon from being pulled into water diversions. Significant amounts of water historically used for irrigation and municipal supply have flowed through the California Bay Delta and out to sea in an effort to improve the survival of salmon. However, these efforts have not had the intended effect of increasing salmon populations. Instead, we are finding that collaborative efforts to allow juvenile salmon to spend time in flooded rice fields are having a much better effect than simply keeping more water in our river systems. This is yet another example of the need for collaboration rather than conflict.

Elsewhere in the battles over salmon, farmers and ranchers sought to work with local, state and federal agencies to implement a small-scale supplementation program. The constraints of the ESA and bureaucratic reluctance to engage in supplementation (it is out of fashion in the latest conservation thinking) resulted in the project going nowhere. This reinforced in the minds of farmers and ranchers that the real motivations are something other than actually helping species.

### Small Success in Collaborative Conservation on Working Lands

There are positive examples of collaboration on working lands during the last two administrations. The Bush Administration promulgated 4(d) rules that exempt routine ranching activities from the prohibitions of the Act for the California Tiger Salamander and California Red Legged Frog. In both examples, the United States Fish and Wildlife Service (FWS) recognized that ranches provided the bulk of habitat for these species. They saw that continued ranching was more beneficial to the species than preventing the possible deaths of a few critters and potentially driving ranchers to sell for development or switch to more profitable crops.

Another successful example of collaboration came during the Obama Administration when the Modoc Sucker (a small fish) was delisted after extensive work between the agency and ranchers in Modoc and Lassen to improve habitat.

Unfortunately, these positive stories are more aberration than opportunity under the current ESA, as there are few examples that have worked for both people and species. The fact is that very limited circumstances have proven just right enough to fit the narrow opportunities currently provided for in the ESA.

### Monarch Butterfly: A Promising Future Model

While the spotted owl and delta smelt are stories of how the EA has failed people and species, the monarch butterfly could shape how we approach conservation in the future. The USFWS received a petition to list the monarch in 2014 and agreed pursuant to a settlement to make a listing decision by June 2019.

We are striving hard, as are many conservation groups, to find solutions that work for species and people. While we believe the solutions to improve habitat are feasible, it is clear the ESA is not flexible enough to ensure that those proactive collaborative conservation efforts are not derailed by litigation.

As we address the monarch, we have a question before us. Will we continue to allow the ESA to be about conflict, or can we work together to create a path toward conservation that works for species and people?

### Good Stewards

Under the current regulatory climate, the ESA disincentivizes landowners from protecting and growing habitat. We can all agree that rational landowners should do everything they can to reduce their risks by minimizing habitat or species on their land. Despite this hard logic, I am proud to say that farmers and ranchers are good stewards and generally accept the risk. But escalating conflicts and expanding lists of endangered and threatened species are consistently straining this situation. Now is the time to focus on improvements to the ESA that will encourage collaborative conservation by reducing conflict and improving regulatory certainty.

In order for any landowner to work collaboratively to conserve the species, they need to know at the start what will be expected of them, and they must be confident the rules are not going to change once they are in.

Several provisions before the Committee today recognize this point. Providing incentives and regulatory assurances to landowners — topics in The LOCAL Act, H.R. 6344, the LAMP Act, H.R. 6364, and The PREDICTS Act, H.R. 6360 — are two of the elements necessary to providing landowners with the real opportunity to engage in collaborative conservation. For future success in species conservation, it is important to recognize the costs of implementing conservation on the land for farmers and ranchers. And it is important to recognize farmers' and ranchers' need for regulatory certainty.

### Conclusion

As the committee considers legislation intended to improve the efficacy and efficiency of the ESA, we stand at a crossroads in conservation. No one is suggesting we should turn back. Rather, we are now choosing on which path to move forward. To do nothing is to reject decades of lessons from applied conservation and continue down the path of conflict-based environmentalism that developed in the 20<sup>th</sup> century, failing species and people alike. We have another option and a better option. We can take a hard look at the lessons we have learned about conservation and forge a path toward conservation in the 21<sup>st</sup> century that works with our farmers and ranchers and not against them.

We appreciate the committee's hard work to identify aspects of the ESA that can be improved and offer the American Farm Bureau Federation's support for the measures being considered before the committee today. Ideas to prioritize petitions,<sup>2</sup> improve transparency of data and litigation,<sup>3</sup> and provide greater opportunity for state and local governments to participate in management of species<sup>4</sup> are ideas that have been discussed in many forums, and are concepts also included in Senator Barrasso's discussion draft of the Endangered Species Act Amendments of 2018. As legislative efforts move forward in the House and Senate, we emphasize the importance of incorporating the breadth of perspectives into the process in order to develop viable and durable solutions that will result in long term, meaningful improvements to the Endangered Species Act.

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<sup>2</sup> H.R. 6355

<sup>3</sup> H.R. 3608

<sup>4</sup> H.R. 6345, H.R. 6364