

Endangered Species Act

Congressional Working Group

In Case You Missed It...

THE DAILY CALLER

[Improving the Endangered Species Act for the 21st Century](#)

By ESA Working Group Co-Chairs Doc Hastings and Cynthia Lummis

The Daily Caller

3/11/2014

Over forty years ago, Congress passed the Endangered Species Act (ESA) with the noblest of intentions – conserve and recover wildlife facing preventable extinction. This is a moral obligation on which we can all agree. But with a species recovery rate of only two percent, the ESA has proven to be ineffective at protecting truly imperiled species and has unnecessarily hurt people's livelihoods in the process. We can protect endangered species without unduly burdening the American people, but to do so we need a stronger, more effective ESA.

The ESA has not been updated by Congress since 1988 and a lot has changed over the last two and a half decades. In 1988 there was no Internet in our homes, people sent letters instead of emails, we listened to music on a Walkman instead of an iPod, and no one had heard of smart phones or text messages. Today, we wouldn't depend on technology from the 1980s and, similarly, we shouldn't assume that a law last reviewed in the 1980s is the best and most effective for today's world.

That's why we formed an ESA working group last year to determine whether and how the law can be improved to work better for both species and people in the 21st Century.

The working group, consisting of thirteen Republican House Members from across the country, embarked on an eight month-long fact-finding mission. We fielded hundreds of public comments. We heard the testimony of 70 witnesses before the House Natural Resources Committee and held a public forum featuring a broad spectrum of views on the ESA. And earlier this month we released a final report documenting our findings and recommendations.

The working group found that much has changed since the law was first enacted, including the American public's growing understanding of and appreciation for species conservation. Today, there are countless examples of effective conservation programs at the state and local level that respect multiple sets of values. Those who live near, work on, and enjoy our lands, waters, and wildlife show a tremendous commitment to conserving natural resources and a capability to do so without creating unnecessary conflicts with people. This boom in conservation awareness is a success story in and of itself, but the working group found that the ESA has simply fallen behind our ability to conserve and recover species. Instead, the ESA is stuck in a litigation-driven model that rewards those who prefer to use the courtroom at the expense of those who actually practice positive conservation efforts.

In our final report, the Working Group identified several specific areas for improvement. First and foremost, we need to update the ESA to make it more successful where it matters most – recovering species. Actual boots-on-the-ground conservation helps species far more than flowery courtroom speeches.

Another essential step towards improving the ESA is ensuring its transparency in the decisions and scientific data surrounding it. People deserve to actually see the evidence that the federal government is using for major ESA decisions, including listing a species as endangered, designating critical habitat, or using data as evidence for a species' decline. Done poorly, these decisions can create significant economic burdens on citizens and impact private property and water rights. At the same time, it reduces the federal government's ability to effectively and efficiently prioritize resources for the most imperiled species. To instill public confidence, these far-reaching decisions should be based on reliable data, and that data should be publicly available and accessible, particularly if it is taxpayer funded.

Moreover, ESA decisions lack credibility when they are made as a result of statutory deadlines and related lawsuit settlements written behind closed doors with no input from the people actually affected by the decisions. The groups that file these lawsuits often do so to enforce inflexible timeframes under the ESA that apply regardless of whether species are truly imperiled or not. That forces agencies into settlement agreements without the benefit of any public process. At the same time, these groups frequently receive taxpayer dollars to promote their views.

To make matters worse, the federal government does not track or maintain an accurate accounting of the costs to the American taxpayer for these lawsuits, settlements and resulting attorneys' fees. As such, the working group recommends litigation transparency and reforms to curb excessive taxpayer-funded litigation. But most importantly, this recommendation will refocus federal efforts on real species recovery as opposed to prepping testimony for the courtroom.

Litigation abuses have also removed state wildlife management expertise and their scientific data out of the decision-making process. This is a departure from the intent of ESA provisions that require state consultation to encourage voluntary conservation efforts. The working group identified a need to empower states, tribes, local governments, and private individuals by giving them seats at the table in the ESA decisions that affect them. Just as important is harnessing their expertise and ensuring their data — which are often the best and most current — are prominently used in species recovery efforts.

The working group's goal is to improve species recovery, not as some would say to "gut" the ESA. Not surprisingly, there are some who would prefer to keep the ESA's litigation-driven model, particularly those groups that pocket huge attorneys' fees.

Our recommendations are measured, sensible, and designed to better focus and fulfill the ESA's overarching goal of protecting and recovering species. We hope our modest recommendations lay the groundwork for targeted legislation to usher the ESA into the 21st century.

U.S. Representative Doc Hastings (R-WA) is the Chairman of the Natural Resources Committee and is serving his tenth term as Representative for Washington's fourth district. U.S. Representative Cynthia Lummis (R-WY) is serving her third term and is Wyoming's sole representative in the House.

###

<http://esaworkinggroup.hastings.house.gov>