

**TESTIMONY OF ROWAN GOULD,
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BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEES ON NATURAL RESOURCES AND AGRICULTURE
ON “AT RISK: AMERICAN JOBS, AGRICULTURE, HEALTH, AND SPECIES – THE
COSTS OF FEDERAL REGULATORY DYSFUNCTION”**

May 3, 2011

Good morning Chairman Hastings and Chairman Lucas. I am Rowan Gould, Acting Director for the U.S. Fish and Wildlife Service (Service). Thank you for the opportunity to testify on behalf of the Service. The focus of my testimony will be on: the Service’s role of consulting with the Environmental Protection Agency (EPA), as required by Section 7 of the Endangered Species Act of 1973 (ESA); the significant challenges we face in addressing this requirement; and our commitment to continue working with our Federal partners on EPA’s actions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The ESA and FIFRA have different but complementary purposes and the statutes create a set of obligations for the EPA, Service, and the National Marine Fisheries Service (NOAA-Fisheries).

SERVICE’S ROLE

The purposes of the ESA are to provide a means for conserving the ecosystems upon which endangered and threatened species depend and a program for the conservation of such species. The ESA directs all Federal agencies to participate in conserving these species. Specifically, section 7 (a)(1) of the ESA charges Federal agencies to aid in the conservation of listed species, and section 7 (a)(2) requires the agencies, through consultation with the Service, to ensure that their activities are not likely to jeopardize the continued existence of listed species or adversely modify designated critical habitats.

One of the Service’s roles in carrying out its responsibilities under the Endangered Species Act is to advise Federal agencies on the conservation needs of endangered and threatened species. In order to fulfill that role, the Service requires specific information from Federal agencies that describes the nature and extent of the proposed action, the area to be affected by the proposed action, a description of any listed species or critical habitat that may be affected, a description of the manner in which those species may be affected, and any other relevant reports including any environmental impact statement, environmental assessment, or biological assessment. With that information in hand, the Service conducts its assessment of whether the proposed action, when combined with the current status of the species, and any cumulative effects, is likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The Service’s assessment is relayed to the Federal agency in a document called a “Biological Opinion.” It is this biological opinion upon which Federal agencies such as EPA rely in fulfilling their responsibility to insure their actions are not likely to

jeopardize the continued existence of any listed species or result in destruction or adverse modification of critical habitat.

CHALLENGES

The section 7 consultation provisions of the ESA are most commonly applied to discrete Federal actions that have a limited temporal and geographic scope—such as approval of a grazing permit/lease or a construction project. The Service conducts thousands of such consultations each year and these consultations play an important role in promoting the conservation of endangered and threatened species. EPA’s pesticide registration actions are very different in that they typically cover large geographic areas (sometimes the entire nation), are in effect for a lengthy period of time (typically up to 15 years, and provide data on toxicity to standardized test species and extrapolate that information to potential effects to listed species.. These differences create key scientific and technical issues that must be resolved. Some of these key issues include:

- How to extrapolate toxicity data from standardized test organisms to effects on listed species;
- how sub-lethal effects to individuals cascade to effects on populations and species;
- how the toxicity of the active ingredient relates to the toxicity of the product as applied and combined with other registered products;
- how to manage uncertainty, and
- how to use historical agricultural production and pesticide use data when assessing risks over the 15 year duration of a registration decision.

Another important challenge is how to provide for effective involvement of registrants and stakeholders in the consultation process so that measures directed at conserving listed species will have minimal impacts to food and fiber commodity production.

PATH FORWARD

Over the past year, the Service, NOAA, and EPA have been working cooperatively through an interagency working group to address these scientific issues and we expect that group to continue its efforts. Recently, the working group and USDA also agreed to contract with the National Academy of Sciences’ National Research Council to help clarify these issues. The Service also believes that we must take full advantage of the knowledge of pesticide registrants and other stakeholders to help refine the assessment of effects to listed species. There are numerous opportunities within the consultation process to incorporate such information including when EPA is preparing its risk assessment, when the Service is beginning preparation of its biological opinion, when the Service has developed its draft biological opinion, and when reasonable and prudent alternatives or reasonable and prudent measures are being developed by the Service and EPA.

COMMITMENT

The Service is committed to working with EPA, NOAA, and USDA to establish an efficient process that satisfies EPA's obligations under FIFRA and provides a means for the conservation of threatened and endangered species required under the ESA, while minimizing the impact to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

CONCLUSION

The Service appreciates the leadership, and the interest and efforts of both Committees in supporting the conservation of the nation's fish and wildlife resources. I appreciate the opportunity to testify today and would be happy to answer any questions.