

DOC HASTINGS, WA  
CHAIRMAN  
DON YOUNG, AK  
LOUIE GOHMERT, TX  
ROB BISHOP, UT  
DOUG LAMBORN, CO  
ROBERT J. WITTMAN, VA  
PAUL C. BROUN, GA  
JOHN FLEMING, LA  
TOM McCLINTOCK, CA  
GLENN THOMPSON, PA  
CYNTHIA LUMMIS, WY  
DAN BENISHEK, MI  
JEFF DUNCAN, SC  
SCOTT R. TIPTON, CO  
PAUL A. GOSAR, AZ  
RAÚL R. LABRADOR, ID  
STEVE SOUTHERLAND II, FL  
BILL FLORES, TX  
JON RUNYAN, NJ  
MARK AMODEI, NV  
MARKWAYNE MULLIN, OK  
CHRIS STEWART, UT  
STEVE DAINES, MT  
KEVIN CRAMER, ND  
DOUG LAMALFA, CA  
JASON SMITH, MO

TODD YOUNG  
CHIEF OF STAFF

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

**Opening Statement of**  
**Chairman Doc Hastings**  
**Committee on Natural Resources**  
**1324 Longworth House Office Building**  
**Full Committee Hearing on**  
***“ESA Decisions by Closed-Door Settlement: Short-Changing Science,***  
***Transparency, Private Property, and State & Local Economies”***  
**December 12, 2013 at 10am**

PETER A. DeFAZIO, OR  
RANKING DEMOCRATIC MEMBER  
ENI F.H. FALCOMA, AS  
FRANK PALLONE, JR., NJ  
GRACE F. NAPOLITANO, CA  
RUSH HOLT, NJ  
RAÚL M. GRIJALVA, AZ  
MADELEINE Z. BORDALLO, GU  
JIM COSTA, CA  
GREGORIO KILILI CAMACHO SABLAN, CNMI  
NIKI TSONGAS, MA  
PEDRO R. PIERLUISI, PR  
COLLEEN W. HANABUSA, HI  
TONY CÁRDENAS, CA  
STEVEN HORSFORD, NV  
JARED HUFFMAN, CA  
RAUL RUIZ, CA  
CAROL SHEA-PORTER, NH  
ALAN LOWENTHAL, CA  
JOE GARCIA, FL  
MATTHEW CARTWRIGHT, PA

PENNY DODGE  
DEMOCRATIC STAFF DIRECTOR

Two years ago, the Obama Administration’s Interior Department signed settlement agreements with two litigious groups, in their words, “to make implementation of the ESA less complex, less contentious and more effective.”

In August, the Director of the Fish and Wildlife Service testified before this Committee that “settlement agreements are often in the public’s best interest because [the Service] has no effective legal defense to most deadline cases, and because settlement agreements facilitate issue resolution as a more expeditious and less costly alternative to litigation.”

This raises several questions: are these ESA settlements, and others negotiated by federal agencies behind closed doors with certain groups, truly in the public’s “best interest?” Have they made implementation of ESA “less contentious” and “less costly?” Are “expeditious” ESA listings allowing adequate involvement of states, local governments, and private landowners or aiding efforts to avoid listings or to delist species? Have they encouraged use of transparent and best science and commercial data in ESA decisions? Have they led to robust economic impact analyses of ESA listings on communities? Have they discouraged litigation?

Here are some facts of what these settlements *have* produced in just two years:

- The current number of proposed and final ESA listings has increased by 210, and the amount of proposed and final critical habitat has increased by more than 2 million acres and more than 2,000 river miles nationwide.
- The Interior Department has accepted 85 percent of the new listing petitions it received, including petitions seeking more than 140 new listings to the Fish and Wildlife Service, and the National Marine Fisheries Service.

- Selective use of ESA data and science and peer review conflicts of interest has clouded the Obama Administration's adherence to data quality and transparency requirements.
- New executive orders and regulations are reducing robust economic impact analyses, and could alter how critical habitat is analyzed.
- Litigants to the settlements are continuing to file lawsuits. In just the past year, the Center for Biological Diversity has threatened or filed over a dozen new lawsuits against the Interior Department, either because they didn't list fast enough, or because the Center for Biological Diversity didn't agree with Interior's decision not to list.

Undoubtedly, some believe cramming hundreds of obscure species onto the ESA list under deadlines and blocking off huge swaths of land because of the settlements are "successes," but many areas of the country tell a different account of how these policies are impacting their communities, their economies, and ultimately, the species.

While the Service recently "endorsed" a plan submitted by Texas, Oklahoma, Kansas, Colorado and New Mexico to conserve the Lesser Prairie Chicken, there is little assurance that the Service won't list the prairie chicken anyway. The Service has refused requests by dozens of counties and other interests for additional time to factor new data and review other plans, insisting it must stick to its self-imposed settlement deadline of March 2014.

In coming months, according to settlement-imposed deadlines, the Bureau of Land Management and Forest Service will submit plans covering over 250,000 square miles in 11 Western states to the Service to decide whether they are adequate to avoid listing of the Greater Sage Grouse. These plans are based on seriously flawed federal technical documents that lack transparency. Nevertheless, the Service has charged ahead with proposing listing of sage grouse in portions of Nevada, California, Colorado and Utah.

Over 2,000 river miles in a dozen mid-western and southern states are likely to be impacted as a result of the Service's listing of mussels and other fish species. These listings will impact over 40 percent of Arkansas alone, including agriculture, timber, and energy producers, and other small businesses.

In Washington, listing is imminent for a plant called the bladderpod, though DNA shows it is not warranted, and proposed gopher listings are impacting local economies and one of the largest military installations in the world.

These are some impacts from the settlements. The "listing-by-litigation" approach is not working for people and species. I look forward to hearing from our witnesses and to continuing a frank and open discussion on how to improve this law.

###