

Testimony of Daniel M. Ashe
U.S. House of Representatives, Committee on Natural Resources
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Good afternoon Mr. Chairman and Committee Members. It is a pleasure and honor to testify before you on the Endangered Species Act.

I am testifying today in my capacity as President and CEO of the Association of Zoos and Aquariums and also as a wildlife conservation professional who has worked on and with the law for over 40 years. That includes 13 years as a member of the Professional Staff of the former Committee on Merchant Marine and Fisheries, the House Committee that brought the original law, its predecessor laws, and all subsequent reauthorizations to the House floor. And, of course, I spent 22 years with the U.S. Fish and Wildlife Service.

The Association of Zoos and Aquariums is a professional membership and accrediting organization. AZA accreditation is the global gold standard for a modern zoological facility, and our membership includes 253 accredited facilities in 13 countries. They reflect the highest standards in animal care and presentation, guest service, and education. They are leaders in the conservation of wild life and wild places, and attached to this testimony is our latest report on our members' conservation, scientific and educational contributions. It shows that they collectively are among the world's largest wild life conservation organizations, contributing over \$250 million annually in direct support for conservation efforts. Their education programs reach over 360 million people.

AZA-accredited members have been integral to many successes in endangered species conservation, from California condors to Florida corals, wolves to whales, sea turtles to desert tortoises, manatees to mussels, and American burying beetles to Hawaiian birds. They are dedicated partners in endangered species conservation who support the notion of a strong and protective legal framework. They are regulated parties who understand and support the need for compliance, but also suffer frustrations with lengthy delays in achieving compliance due to substantially underfunded and overburdened federal agencies. Later in this testimony, I'll give some specific examples of our members' partnership successes and their permit frustrations.

December 28, 2023, will mark 50 years since former President Richard M. Nixon signed the Endangered Species Act (ESA), which has rightfully earned status as the global gold standard for species and biodiversity protection. Its successes are undeniable, and many include where zoos and aquariums accredited by the Association of Zoos and Aquariums have played crucial roles. The ESA has helped make the U.S. a global leader in biodiversity conservation. I and AZA's membership are ardent advocates of the ESA, especially the public servants who dedicate their careers to make it work. But, at 50, the law is in precarious political posture and is being asked to address challenges not envisioned when it was enacted or even when it was last reauthorized in 1992.

Political Posture. The ESA's foundations of political support, once solid to bedrock, have significantly eroded. It was designed with an eye toward things like the bald eagle and American alligator, and without even an inkling it would be called upon to confront a planetary mass extinction. The ecological

framework that supports the planet's amazing diversity of biological life is unraveling. We know the cause – expanding human population and affluence. So, the ESA, in many respects, stands between us and our human desires. We like to believe that we can have our cake and eat it too, but economic growth and even simple human pleasures, like watering our lawns, often stand in stark conflict with species protection. People and policymakers express concern for species, even diminutives like delta smelt and razorback chub, but when those species stand between us and our hot tubs, our golf greens, or our winter vegetables, we quickly ask questions like, “So, remind me again, why is the delta smelt important?”

In 1973, the original law passed 92-0 in the U.S. Senate and 355-4 in the House of Representatives. In 2013, the late-Congressman John Dingell (D-MI), who was one of the 355 votes favoring passage, told me, “The ESA could likely not garner a simple majority vote in today's Congress.”

The point is, like the biological diversity it seeks to protect, the law is in crisis. Its political situation is untenable and unsustainable. It has become, like so many issues of our day, hyper-partisan. And the agencies charged with its implementation are squeezed between critics on one side, who think they are being over-regulated, and critics on the other, who think the agencies are too timid.

The resulting lack of consensus places those agencies – the U.S. Fish and Wildlife Service and NOAA Fisheries – in a position of increasing isolation, with hostile constituencies on all sides, and has made it difficult for the agencies to secure the funding needed for robust implementation and broader success.

Challenges Unforeseen. When the law was enacted and reauthorized, I believe it was under the general assumption that we can stop extinctions. That's a false premise, and many large-scale phenomena make extinctions inevitable.

We are living amidst the planet's sixth mass extinction. The last was 65 million years ago, caused by a meteor collision and resulting in extinction of the dinosaurs, and millions of other species, creating opportunity for mammals to thrive. Today's extinction crisis is unique, as it is driven by the ecology and economy of one of those mammal species – *homo sapien*. Humans, particularly the most affluent and consumptive humans – like you and me – are on an unwitting, undeniable path to exterminate a large proportion of the planet's diversity of life. We cannot stop it, but through laws like the ESA, we can save many species if we set ourselves to the task and if we don't wait until the last moment when a species is gasping for its last breath.

Climate Change was beginning to be understood in the late-1980s and early-1990s, but even as recently as then, we had no context for the challenges that it would present. Consider a species like the polar bear. Its sea-ice habitat is rapidly disappearing, but we have no way to protect that habitat on any time scale relevant to the conservation of the bear or restore or replace it as has been successfully done with species like red-cockaded woodpecker.

Likewise, the emergence of exotic and invasive diseases and their effect on species conservation was never contemplated. Human society was caught flat-footed by the COVID-19 pandemic. Our response required trillions of dollars, massive social disruption, and the disease still took millions of lives.

Likewise, conservationists are now confronting exotic and invasive diseases like white-nosed syndrome, in bats, chytrid fungus in salamanders and frogs, sylvatic plague in prairie dogs, and highly pathogenic H5N1 avian influenza in birds with the most meager resources and tools. By comparison, it's like fighting wildfires with a garden hose.

Of course, poaching and illegal trade have always been issues, the explosion of wildlife trade and trafficking and the sophistication of the trafficking networks in the past two decades was never envisioned, and current regulatory and enforcement capacities are overwhelmed.

And science has always been an essential ingredient in ESA implementation. When the original law was enacted, the U.S. Fish and Wildlife Service operated the world's preeminent system of wildlife research facilities, including the Patuxent, Maryland, and Madison, Wisconsin, laboratories where Rachel Carson acquired the majority of the scientific experience and knowledge that powered her impactful work. Today, those labs are shadows of their former selves, and, in my opinion, the implementing agencies are falling further and further behind, especially in the rapidly developing field of genomic science.

Mr. Chairman and Subcommittee Members, the ESA is not unlike any other area of endeavor. If we look for failure, we can find it. If we look for success, we find that, and in my view, in much more abundance.

Endangered Species Partnership. Partnership has always been a hallmark of success in species conservation. As I mentioned earlier, AZA member facilities have been integral partners in some of the most dramatic and some of the most unheralded ESA successes. Without zoological professionals with experience in the husbandry of Andean condors and non-native ferret species, the courageous efforts to capture and breed the last remaining wild California condors and black-footed ferrets would have been impossible. Without the expertise of facilities like SeaWorld, Brevard Zoo, National Aquarium, Texas State Aquarium, and New England Aquarium, the rescue and rehabilitation of dozens of endangered manatees and thousands of sea turtles every year would not be possible. Red wolves, prairie chickens, right whales, chimpanzees, manta rays, cheetahs, and the list goes on and on.

And our members are joining the Services, as well as State and Tribal agencies, at the cutting edge of endangered species conservation.

AZA members, like Oregon Zoo, are doing groundbreaking research on captive polar bears, which is difficult, expensive, and dangerous to conduct on free-ranging bears. Using standard training and enrichment techniques, captive bears can be monitored while walking, running, swimming, eating, and sleeping. Their biophysical parameters can be measured, helping to ground truth remote data from wild bears. Their behaviors can be monitored in response to sound and other disturbances, providing crucial data for siting of facilities in critical habitats. Instrumentation can be tested before it is applied to wild bears. And behavioral research is crucial in helping inform efforts to reduce escalating human-bear conflicts.

Genetic diversity in the recovery of small populations is an ever-present challenge. AZA members have provided invaluable assistance in an innovative "cross-fostering" program for the Mexican wolf. Husbandry experts at AZA member facilities like El Paso Zoo and Brookfield Zoo can precisely time the

birth of captive wolf pups and then in orchestration with partners, place those pups into wild dens. These captive-reared pups bring new genetic diversity into the wild population, with the added benefit that the captive-reared pups are raised, from birth, as wild wolves, reducing the likelihood that they will have socialization issues, and addressing concerns expressed by ranchers and adjoining communities.

The rapid evolution in genetic technologies is bringing both challenge and opportunity to the field of endangered species conservation, and AZA member facilities are leaders in exploring the opportunities. One example is biobanking. In 1975, San Diego Zoo Wildlife Alliance had the incredible foresight to create their "[Frozen Zoo](#)", and today, with over 10,000 cryopreserved living cell lines representing over 1,000 taxa and a seed bank with 65 million samples, it is the largest and most diverse collection of its kind in the world. This visionary investment now represents a crucial resource for saving species amidst the ongoing extinction crisis. Samples from the SDZWA Frozen Zoo have already been deployed in the conservation of [black-footed ferret](#), [mountain yellow-legged frog](#), [Przewalski's horse](#), [California condor](#), and a courageously innovative effort to save the [northern white rhino](#) from the brink of extinction. The collections maintained by AZA member facilities represent an invaluable storehouse of genetic diversity that will aid conservation decades into the future.

The ability to respond rapidly to agency needs is also a hallmark of AZA member facilities. Stony coral tissue loss disease was first observed, in 2014, in the northern parts of the Florida Reef Tract, and it has now spread throughout the entire ecosystem, the largest coral reef in the continental United States. Around 50% of the 45 species of reef-building corals in the Florida Reef Tract are vulnerable to this disease, including five species listed as threatened under the ESA. In response to the disease, Florida's Fish and Wildlife Conservation Commission requested assistance from the Association of Zoos and Aquariums to rescue and hold representative and diverse populations of coral. In 2018, AZA launched the Florida Reef Tract Rescue Project, aiming to collect and house thousands of corals for future restoration. Currently, nearly 80% of the 2,283 rescued corals are managed at 19 AZA facilities in 12 states, from SeaWorld and Disney in Orlando to the Butterfly Pavillion in Colorado. These dedicated facilities have borne over 80% of the financial and in-kind investment in the rescue project. Before this project, AZA facilities were already working on conservation efforts for threatened corals in the 1990s and early 2000s, which laid the foundation for the success of the Florida Reef Tract Rescue Project and contributed to coral reef science and understanding globally.

Regulatory Delay and Frustration. Our aquarium and zoo members are also part of the regulated community. They require ESA authorization to move animals domestically and across international borders. These authorizations are often directly tied to conservation efforts, such as reintroducing Mexican wolves, black-footed ferrets, California condors, and blue-throated macaws. Despite being longstanding and trusted partners in conservation with the U.S. Fish and Wildlife Service and NOAA Fisheries, our members are increasingly frustrated by long delays in the permit application process resulting from agencies not adequately resourced to handle their permitting workload.

One of our members, Wildlife Encounters, based in Winter Haven, Florida, has been struggling, for three years, to gain authorization to move captive-bred macaws to Bolivia in support of a reintroduction project with the Bolivian government. Another, Cincinnati Zoo and Botanical Garden, has an application to import captive Asian elephants from a European Zoo, which remains pending after nearly 18 months. The Smithsonian's National Zoo has been waiting nearly a year for an export permit to send

Pandas back to China under their lease agreement with China. Alaska Sealife Center recently waited four years to receive a renewal of its permit to rehabilitate rescued walruses, an essential government service that many of our members provide at their own cost.

I wish we could say these are isolated and extreme examples, but the list continues. AZA members are proud to support the implementing agencies through captive breeding for reintroduction, rescue of endangered species, and care of confiscated wildlife. However, their experience with permitting is almost always frustrating, and frequently disruptive of conservation efforts, and deleterious to animal care and wellbeing.

Our members support the ESA. They do not object to the need for compliance, but the delays in achieving compliance are unacceptable. And if longstanding and trusted partners are encountering such lengthy compliance delays, and especially in such simple and low-risk cases as mentioned here, it is not hard to imagine that complex energy, transportation, and infrastructure projects are experiencing the same and worse.

We do not attribute these delays to any infirmities in the law, but rather, to the fact that the agency is not adequately funded to meet their legal obligations, and especially the regulated community's needs. I do also want to commend the Service for their willingness to discuss our concerns and to consider possible solutions. We are hopeful for progress, especially if they can acquire additional funding that is commensurate with their mandated responsibilities.

Mr. Chairman and Committee members, human ecology and economy is driving the planet's sixth mass extinction event. We cannot stop extinction, but we can slow it, and we can save some species from it. A strong and effective Endangered Species Act has never been more relevant and important. And in our view, the most important need is to adequately resource the agencies charged with its implementation.

Thank you!