

OPENING STATEMENT

The Honorable Paul Broun (R-GA), Chairman

Subcommittee on Investigations & Oversight

Committee on Science, Space, and Technology

The Endangered Species Act: Reviewing the Nexus of Science and Policy

October 13, 2011

The Endangered Species Act (ESA) is one of the most influential and far-reaching environmental laws this nation has ever passed. Since its passage in 1974, it has been the subject of considerable debate – not only about its impact on our nation’s economy, but also about its ultimate effectiveness. Everyone wants to save species from extinction, but honest people can have an honest debate about the most efficient and effective way to do so. In terms of effectiveness, I believe it would be hard to argue that the law has been anything but an abject failure. Of the roughly 2,000 species listed as endangered or threatened, only about one percent have actually recovered. As a tool for advancing other special interest policy goals, it has certainly been very influential, but I’m not sure that was the Act’s original intent.

Today’s hearing will explore how the science is used to inform policy decisions under ESA. The written testimonies provided by our witnesses highlight major flaws in the basic construct and implementation of the Act. Landowners are penalized rather than rewarded for protecting habitat and reporting populations. Dr. Wilkins writes that only with a guarantee of anonymity will most landowners consent to having their property surveyed for the existence of particular species. As one example, his scientists found 28 more locations where the dunes sagebrush lizard was found, compared to only three previously known locations. This data was only captured after landowners viewed Texas A&M researchers as something other than a threat to their property rights. Professor Adler’s testimony highlights many other weaknesses in how the act treats science and policy, and Mr. Vincent-Lang will provide a state’s perspective on ESA.

Recent events at the Department of Interior have also attracted this Subcommittee’s attention. On September 16, 2011 U.S. District Court Judge Oliver Wanger of California sharply criticized the work and testimony concerning the Delta Smelt Biological Opinion by two federal scientists, one from the Fish and Wildlife Service and one from the Bureau of Reclamation. Commenting upon the FWS scientist, Judge Wanger stated “I find her testimony to be that of a zealot.” In further comments about the Bureau of Reclamation scientist, he stated

“And I am going to make a very clear and explicit record to support that finding of agency bad faith because, candidly, the only inference that the Court can draw is that it is an attempt to mislead and to deceive the Court into accepting what is not only not the best science, it’s not science.”

I am also concerned about the flood of ESA petitions and the related litigation that could potentially challenge the quality of the Service’s work. I find it revealing that some of the same entities that have brought lawsuits over hundreds of species brag in their annual reports about the money they make from filing environmental lawsuits against federal agencies. In its 2010 annual report, WildEarth Guardians states that ten percent of their income came from their

litigation settlements and that they depend upon this income to “survive and thrive.” I note that this so-called income is at taxpayer expense. Maybe supporting environmental trial lawyers is part of the President’s job plan, but I doubt the American people would agree that these are “green jobs.”

Two recent court settlements require over 600 species to be jammed through the Fish and Wildlife Service listing process regardless of other agency priorities. I have serious concerns about whether these listings will be made based upon science, as they should be, or on legal expedience.

In a time of record unemployment, the Administration continues to choose regulations over jobs. While I agree an appropriate balance can be met, constituents in my district need jobs, not red tape. We don’t live in a vacuum and neither should our environmental laws. Many of the witnesses before us today have identified serious weaknesses with ESA, as well as practical solutions that can bring about real conservation. It is time for an overhaul of the Endangered Species Act.