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OUR VIEW

Western governors offer prudent ESA proposal

Since it was passed in 1973, the Endangered Species Act has been all but untouchable by members of Congress, who consider amendments to the law with the same trepidation they would if they were climbing over an electric fence.

It's not that the ESA is perfect — far from it. Rather it's fear of retribution from environmental groups who see the law as their meal ticket and a weapon they use against anyone who doesn't share their enthusiasm for shutting down economic activities across the West to "save" local populations of various species.

For example, wolves have been a major problem for ranchers since they were reintroduced in Idaho and

Yellowstone National Park in the 1990s. Since then, they have spread into neighboring states, where they have caused even more problems, but wildlife managers have had their hands tied.

That's why an effort by the Western Governors' Association is so interesting. The top elected officials in the western-most 21 states and three Pacific territories — Republicans and Democrats — took on the challenge of studying the ESA to determine how they could make it work better.

Headed by Wyoming Gov. Matt Mead, the association first invited people from around the West to talk about the law. The governors' recommendations

are the result of those initial conversations and "drilling down" to develop ideas for addressing the law's shortcomings.

It was not easy. The ESA is complicated and riddled with strict deadlines. In fact, the deadlines are part of the problem, the governors found. They were added in 1982 and have provided environmental groups with the hammer they wanted to force the federal agencies to pay them whenever they miss a deadline.

The governors recommended that the deadlines be made more realistic. The also recommended the U.S. Fish and Wildlife Service

be allowed to prioritize petitions for species of concern. Those species that are already the subject of on-the-ground conservation efforts would be a lower priority than other species that are not being helped. This would allow time to determine how any conservation efforts are working before the USFWS jumped in.

Such recommendations represent a well-thought-out starting point for making the ESA better and more effective.

They "would require agencies to consider conservation efforts and give them time to work," David Willms, a policy adviser to the Wyoming governor, recently told the Idaho Water Users Association's

water law conference.

We've previously recommended that Congress tear up the ESA and start over on a better law that works, and is workable. The ESA overloads federal agencies, exposes them to needless lawsuits and prevents wildlife and land managers from using all the tools at their disposal to do their jobs.

Getting rid of the ESA, however, is probably not realistic, since every environmental group would most likely hit the panic button at the mention of repeal.

But the case the Western governors make for judiciously modifying the ESA to make it more effective — and ultimately save more species in need of help — is difficult for even the most ardent environmentalist to resist.

Wolves protected under the federal Endangered Species Act have created massive problems for ranchers and others in much of the West. The Western Governors' Association has proposed changes to the ESA.



California needs to follow endangered species review mandate

By KAYCEE ROYER
For the Capital Press

Guest
comment
Kaycee Royer



Under the California Endangered Species Act (CESA), the California Department of Fish and Wildlife (CDFW) is required to conduct status reviews of species listed as either threatened or endangered every five years. The department has unlawfully failed to conduct these five-year status reviews for 231 out of the 235 listed species, and apparently has no intention of conducting the reviews.

In 2016, the California Cattlemen's Association, with the help of the Pacific Legal Foundation, filed a lawsuit against the CDFW to compel them to conduct the mandatory five-year reviews. The status reviews are extremely important, because they can be crucial to the recovery of listed species. Californians have a vital interest in seeing species recover, for both economic and environmental reasons.

However, without up-to-date information on species, we lack the sound scientific analysis needed to determine if the department's programs are making progress toward their stated goal of restoring threatened and endangered species.

Feet dragging

Since the lawsuit was filed, CDFW officials have dragged their feet, effectively delaying the 231 overdue status reviews for more than two years. They recognize the reviews are mandatory, but claim they do not need to complete them because it would cause species to go extinct. Yet when pressed on this point, department officials cannot point to anything, other than a lack of resources that would make their contention true.

There are two reasons why the department is wrong about its requirement to complete the five-year reviews.

First, the CDFW fears its other activities will come from a screeching halt because of the resources needed to conduct these five-year status reviews. But the department bases its resource estimates on the wrong type of status review. This confusion between two types of status reviews is like equating traveling from San Di-

ego to Sacramento on foot with traveling there by car. Even though the word "traveling" is the same, the two modes of transportation make the trip extremely different in terms of time required. Similarly, conducting a five-year review is much less time consuming than conducting the extensive status review the department claims it has to undertake.

The department incorrectly argues that to comply with the five-year status review requirement, it needs to undertake what is called a 12-month status review. This more intensive type of review, which requires significant investment of resources and collaboration with outside scientists, ultimately concludes with a recommendation to list or not list the species. These reviews often require multiple CDFW scientists and biologists to review complex and challenging questions related to the species' legal status. Also, many of these reviews undergo peer review, which adds to the time required for completion.

By contrast, the process for the five-year status review requirement is much less intensive, requiring only 90 days to complete. The five-year review is statutorily equivalent to what is called a petition evaluation, which the department conducts whenever stakeholders petition to list or delist a species under CESA. To complete a five-year status review, the department would only need to evaluate and compile information it has on hand to analyze whether a change in a species' status is warranted.

Second, the California legislature recognized there would be resource constraints when it enacted the five-year status review requirement. In fact, the wise stewardship of taxpayer resources was a key rationale for the requirement: legislators understood that tracking the progress of species listed under the CESA was necessary to efficiently and effectively allocate funds to those species most deserving of protection. The legislature, understanding the importance of these reviews, has not repealed or relaxed the

requirement that the five-year reviews be conducted.

This five-year status review requirement ensures that the CDFW is periodically checking in on listed species. These reviews play an important role in the conservation of threatened and endangered species, because they compile crucial information about how a species is doing, current population levels, the potential threats and harms the species might face, and how the recovery programs are actually working. This allows officials to make decisions based upon the most up-to-date data and analysis.

Important role

The five-year reviews also protect property owners from unnecessary regulatory burdens imposed because of species that are no longer threatened, and they protect taxpayers by ensuring the department is efficiently handling its resources and attending to those species that face the most serious threats of harm.

The federal government recognizes the value of regular reviews in endangered species management. The U.S. Fish and Wildlife Service implements a similar five-year review requirement to ensure species listed under the federal Endangered Species Act are those that actually warrant protection. The federal review revealed that at least seven of the species listed under CESA may be eligible for reclassification or delisting. But because the CDFW has failed to complete its five-year reviews, we have no idea whether these actions might be appropriate at the state level as well.

Californians care deeply about the conservation, protection, and enhancement of our state's threatened and endangered species, and we have entrusted that vital responsibility to the CDFW. By abdicating its responsibility to conduct regular status reviews of endangered and threatened species, the department is failing to uphold its end of the bargain. It's time for the CDFW to follow the law and conduct the five-year status reviews as required.

Kaycee Royer is an attorney at Pacific Legal Foundation, which litigates nationwide to achieve court victories enforcing the Constitution's guarantee of individual liberty.

America needs a farm bill now

By STEWART TRUELSEN
For the Capital Press

Guest
comment
Stewart Truelsen



The United States has a land area of 2.3 billion acres, with half used for agricultural purposes — cropland, forestland, pasture and range. The farm bill is vitally important legislation affecting this enormous, valuable resource and its rural population.

The farm bill, passed by the Senate last week, comes up for reauthorization every few years. There have been 17 farm bills passed by Congress since the first one in 1933. They are sometimes called omnibus farm bills because of the numerous titles and subtitles. The current law, the Agricultural Act of 2014, expires in September.

The first farm bill, The Agricultural Adjustment Act of 1933, was signed by President Franklin Roosevelt during the Great Depression. It was called an adjustment act because the primary objective was to reduce farm surpluses in hopes of raising agricultural prices. During the depression farm prices and income fell by more than half.

Since then, farmers have relied on the farm bill for help in dealing with the risks of farming. The farm bill provides a measure of protection from the instability inherent in agriculture. Don Paarlberg, a distinguished farm economist of the last century, said, "Agriculture is notoriously unstable."

Paarlberg said that vagaries of weather and market behavior are major causes of this instability, but they are not the only ones. Another factor, he said, is the uncertainty of what government officials are going to do. This is certainly true now with trade agreements under review and possibly canceled and tariffs imposed on American farm exports.

Tough times have returned once more to agriculture, and farm income again has been cut in half over the last five years. One difference today is that so many farm families have off-farm income. It's one way they themselves mitigate risk. Farm financial indicators such as debt-to-asset ratios are also better

than during previous downturns — even though trends in lending such as interest rates and loans denied are moving in the wrong direction.

Obviously, a farm bill is not a cure for instability, or instability would have been ironed out of agriculture by now, but it does help farmers manage risk. As American Farm Bureau Federation President Zippy Duvall said, "The 2018 farm bill would protect federal crop insurance and address challenges facing dairy and cotton farmers. The bill continues the work of streamlining and improving programs that encourage our conservation work and promote critical research and development of farming practices."

Duvall noted that farmers are resilient and will get through this latest downturn. However, it would be totally unfair to drag out the farm bill debate and leave them guessing as to what the future holds. To do so only ratchets up the instability inherent in farming.

The Food Stamp Program, now the Supplemental Nutrition Assistance Program or SNAP, was added to the farm bill in 1973 to help gain support from members of Congress in urban districts. It now accounts for some 80 percent of farm bill spending on an annual basis. The food and nutrition component essentially makes the farm bill a "food bill."

The fact of the matter is the farm bill is one of the most important pieces of legislation that Congress deals with. It affects half of the land resources of the United States and all of the rural population. It ensures all Americans that we will have the food, fuel and fiber we need for the future, and it is good for the nation's economy.

Stewart Truelsen is a food and agriculture freelance writer and a regular contributor to the American Farm Bureau Federation's Focus on Agriculture series.