



NATIONAL ENDANGERED SPECIES ACT  
REFORM COALITION

1050 Thomas Jefferson Street, NW, 6th Floor  
Washington, DC 20007  
tel. 202.333.7481 fax 202.338.2416  
www.nesarc.org

February 22, 2013

Douglas Krofta, Chief  
Branch of Listing, Endangered Species Program  
U.S. Fish and Wildlife Service  
4401 North Fairfax Drive, Room 420  
Arlington, VA 22203

Dwayne Meadows, Ph.D., National Coordinator,  
Proactive Conservation Program, Office of Protective Resources  
NOAA Fisheries Service  
1315 East West Highway  
Silver Spring, MD 20910

**Re: Request for Enhanced Dialogue, Quarterly Briefings and Other Administrative Improvements to Ensure Transparency in ESA Implementation**

Dear Messrs. Krofta and Meadows:

On behalf of the members of the National Endangered Species Act Reform Coalition (NESARC), we wish to thank you for your participation in the January 9, 2013 roundtable discussion hosted by the Office of Advocacy for the Small Business Administration (“SBA”). We appreciated the opportunity to discuss our members’ concerns with respect to changes proposed by the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (“Services”) to the procedures for economic impacts analyses in conjunction with the designation of critical habitat under the Endangered Species Act (“ESA”). NESARC, as well as many of its individual members, have filed comments in the rulemaking docket responding to the Services’ proposed rule and identifying additional improvements to the economic impacts analysis procedures. Further, we commend to your attention the comments recently filed by the SBA’s Office of Advocacy. We appreciate the Services’ consideration of these comments and look forward to further efforts by the Service to improve and implement a workable, robust and transparent set of procedures for conducting economic impact analyses on critical habitat designations.

As participants in the January 9<sup>th</sup> roundtable discussion, you may remember that one of the key concerns raised by participants was the need for improved coordination with the public as well as increased transparency and access to information. These concerns were raised both with respect to general implementation of the ESA—but also with respect to particular efforts such as the ongoing candidate listing reviews, development of

procedures for economic impact analyses as part of the Services' critical habitat designation, and other policy initiatives under consideration by the Services.

In the spirit of encouraging innovation in effective communication and transparency, NESARC also has asked its members for additional ideas on ways to improve the level and timing of the Services' communication to the public on ESA matters. While we continue to receive input and ideas from our members, we wished to share with the Services some of the ideas that already have been submitted:

- ***Establish a quarterly briefing session to directly engage with members of the public interested in the Services' implementation of ESA.*** As you are undoubtedly aware, the implementation of the 2011 listing settlement with WildEarth Guardians and the Center for Biological Diversity as well as other ESA regulatory initiatives undertaken by the Services has greatly increased public interest in these matters and has underscored the need for more transparency and better communication between the Services and the public.

The January 9 roundtable serves as an example for better engagement on ESA matters. This roundtable allowed for an open and frank exchange of information and ideas regarding ESA matters. Moreover, it is a format that can and should be replicated. In this regard, we note that other agencies within the Department of the Interior already hold regular stakeholder meetings that are open to interested members of the public, which can be replicated in this context. We strongly encourage the Services to adopt a similar practice.

- ***Establish a minimum comment period of at least 90-days on all ESA petitions, listing/de-listing, and critical habitat proposals.*** A continuing frustration that faces the public is the lack of sufficient notice and time to prepare comments on a specific ESA matter. Limited comment periods ultimately impair the quality of information that can be provided to the Services. Providing for a standard commenting period—that is of sufficient length to allow for effective collection and submission of data to the Services—will allow for more effective engagement by the public and ensure a consistency of expectations regarding the implementation of the public comment process.
- ***Prominently maintain on the FWS' ESA website, a monthly update to the list of those candidate species for which initial or final determinations are planned in the present fiscal year.*** We recognize that FWS issues a Candidate Notice of Review (CNOR) on an annual basis, which includes listing priority rankings and requests further information from the public. However, the CNOR is too general in its scope and provides limited information as to the species that are presently under active review for purposes of proposed or final determinations on their status under the ESA. Such a monthly update will provide a more meaningful level of information to the public and will assist FWS in ensuring timely submittal of species status data that may inform their determination.

- ***Establish an electronic service list, listserv site, and email alert list for all listed and candidate species as well as any petitions to list/de-list species or designate/modify critical habitat.*** Most federal agencies have now developed email alert programs and electronic data rooms that ensure immediate access to information on new developments and an effective means of obtaining information on matters of interest before the agency. Specifically, members of the public can easily register to receive notices regarding new documents that have been submitted to the agency or notice of decisions that have been made. The Services should take all steps necessary to ensure that same level of informational transparency and accessibility.
- ***Provide additional guidance on the type and format of data to be submitted for consideration in economic impact analyses for critical habitat designations.*** Members of NESARC have submitted written comments on the pending rulemaking regarding the procedures for conducting economic impact analyses with respect to proposed critical habitat determinations. In addition to the improvements and changes advocated by our members on that rulemaking, we encourage the Services to take further administrative steps to ensure that the commenting process for such economic impacts data is fully transparent. Where possible, guidance should be provided as to the specific data format being used in the Services' analysis (to allow for consistent data analysis) as well as any specific modeling software and assumptions that are being utilized.

Finally, we respectfully request an opportunity to meet with representatives from the Services in the near future to further discuss these issues and, more generally, how we can improve communications with respect to ESA implementation between the Services and NESARC and its members. Please contact Jordan Smith on the NESARC staff at [jas@vnf.com](mailto:jas@vnf.com) or (202)-298-1914 with your availability.

Sincerely,



Leslie James  
Chairman

cc: Dan Ashe, Director  
U.S. Fish and Wildlife Service

Gary Frazer, Assistant Director for Endangered Species  
U.S. Fish and Wildlife Service

Nicole Alt, Division of Conservation and Classification  
U.S. Fish and Wildlife Service

Marta Nammack, Office of Protected Resources  
National Marine Fisheries Service



NATIONAL ENDANGERED SPECIES ACT  
REFORM COALITION

1050 Thomas Jefferson Street, NW, 6th Floor  
Washington, DC 20007  
tel. 202.333.7481 fax 202.338.2416  
www.nesarc.org

## National Endangered Species Act Reform Coalition Membership Roster

**American Agri-Women**  
Mission, Texas

**American Farm Bureau Federation**  
Washington, D.C.

**American Forest and Paper Association**  
Washington, D.C.

**American Petroleum Institute**  
Washington, D.C.

**American Public Power Association**  
Washington, D.C.

**America's Natural Gas Alliance**  
Washington, D.C.

**Association of California Water Agencies**  
Sacramento, California

**Central Electric Cooperative**  
Mitchell, South Dakota

**Central Platte Natural Resources District**  
Grand Island, Nebraska

**Charles Mix Electric Association**  
Lake Andes, South Dakota

**Coalition of Counties for Stable Economic Growth**  
Glenwood, New Mexico

**Codington-Clark Electric  
Cooperative, Inc.**  
Watertown, South Dakota

**Colorado River Energy Distributors Association**  
Tempe, Arizona

**Colorado River Water Conservation District**  
Glenwood Springs, Colorado

**Colorado Rural Electric Association**  
Denver, Colorado

**County of Eddy**  
Carlsbad, New Mexico

**County of Sierra**  
Truth or Consequences, New Mexico

**CropLife America**  
Washington, D.C.

**Dixie Escalante Rural Electric Association**  
Beryl, Utah

**Dugan Production Corporation**  
Farmington, New Mexico

**Edison Electric Institute**  
Washington, D.C.

**Frank Raspo & Sons**  
Vernalis, California.

**Empire Electric Association, Inc.**  
Cortez, Colorado

**Garrison Diversion Conservancy District**  
Carrington, North Dakota

**High Plains Power, Inc.**  
Riverton, Wyoming

**Idaho Mining Association**  
Boise, Idaho

**Independent Petroleum Association of America**  
Washington, D.C.

**National Association of Counties**  
Washington, D.C.

**National Association of Conservation Districts**  
Washington, D.C.

**National Association of Home Builders**  
Washington, D.C.

**National Grange**  
Washington, DC

**National Mining Association**  
Washington, D.C.

**National Rural Electric Cooperative Association**  
Washington, D.C.

**National Water Resources Association**  
Arlington, Virginia

**Nebraska Farm Bureau Federation**  
Lincoln, Nebraska

**Northern Electric Cooperative, Inc.**  
Bath, South Dakota

**Northwest Horticultural Council**  
Yakima, Washington

**Public Lands Council**  
*Washington, D.C.*

**Renville-Sibley Cooperative Power Association**  
*Danube, Minnesota*

**Rushmore Electric Power Cooperative, Inc.**  
*Rapid City, South Dakota*

**San Luis Water District**  
*Los Banos, California*

**Southwestern Power Resources Association**  
*Tulsa, Oklahoma*

**Sulphur Springs Valley Electric Cooperative**  
*Willcox, Arizona*

**Teel Irrigation District**  
*Echo, Oregon*

**Tri-State Generation & Transmission Association, Inc.**  
*Denver, Colorado*

**Washington State Potato Commission**  
*Moses Lake, Washington*

**Washington State Water Resources Association**  
*Yakima, Washington*

**Wells Rural Electric Company**  
*Wells, Nevada*

**West Side Irrigation District**  
*Tracy, California*

**Western Business Roundtable**  
*Lakewood, Colorado*

**Wheat Belt Public Power District**  
*Sidney, Nebraska*

**Whetstone Valley Electric  
Cooperative, Inc.**  
*Milbank, South Dakota*

**Wilder Irrigation District**  
*Caldwell, Idaho*

**Y-W Electric Association, Inc.**  
*Akron, Colorado*