

April 27, 2009

The Honorable Gary Locke  
Secretary, U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, DC 20230

The Honorable Ken Salazar  
Secretary, U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Secretary Locke and Secretary Salazar,

As scientists with expertise in biological diversity and loss of species, we urge you to overhaul actions and rule changes that weaken the scientific foundation of the Endangered Species Act (ESA). Congress has recently given you additional authority to begin to restore the scientific underpinnings of the ESA by allowing you to rescind two rules implemented in the final days of the Bush administration. These rules fundamentally undermine the ability of science and scientists to protect our nation's biodiversity.

The rules in question allow any federal agency to independently decide whether protected species would be threatened by their projects. Previously, when a federal agency considered a project such as a highway, dam, or mine, it was required to consult with the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS). These "informal" consultations typically led to minor adjustments being made to the planned action that lessened the anticipated impact. This process also helped identify projects with particularly severe or complicated effects, which then received a thorough "formal" consultation.

Many federal agencies do not have the biological expertise to determine the consequences of federal projects on endangered species, and may have vested interests in the implementation of a project. The FWS and NMFS consultations have, for decades, served as important checks and balances to keep our nation's biodiversity safe. Consultation creates a method for informed decision-making that provides better protections for endangered species and has led to successful mitigation efforts for hundreds of species.

The rules also sharply limit the types of information federal scientists can consider when evaluating federal projects, carving out broad exemptions for impacts that "are manifested through global processes" or result in "an extremely small, insignificant impact" on protected species. This is problematic because many severe environmental problems result from sources that individually might be minor but collectively cause serious harm. Fortunately, federal scientists have a decades-long proven track record of analyzing cumulative effects.

On March 3, 2009, President Obama issued a Presidential memorandum requesting that the Departments of Commerce and Interior review recent changes to Endangered Species Act implementation. On March 11, Congress passed legislation giving you special authority to immediately rescind the rules by May 8. "For more than three decades," said the president, "The

Endangered Species Act has successfully protected our nation's most threatened wildlife, and we should be looking for ways to improve it—not weaken it.” We agree.

As you follow President Obama’s directive to find ways to strengthen the Endangered Species Act, we encourage you to ensure that the federal government is in the position to examine and regulate all challenges to endangered species. The threats our world face continue to evolve as we impact the environment in different ways. Federal government scientists must be given the ability to evaluate these emerging threats and communicate their consequences for imperiled species.

The Endangered Species Act is one of our most important environmental laws because of its reliance on robust scientific analysis. According to a May 30, 2005 article in *Science*, less than one percent of listed species have gone extinct since 1973, while 10 percent of candidate species still waiting to be listed have suffered that fate. A more recent comprehensive analysis demonstrates that listed species tended toward recovery more than not and the more thoroughly the ESA was applied the stronger their recovery.<sup>1</sup> In addition to the hundreds of species that the ESA has protected from extinction, listing has contributed to population increases or the stabilization of populations for at least 35 percent of listed species, and perhaps significantly more, as well as the recovery of such signature species as the peregrine falcon.

Congress has recognized that recently enacted regulations should be rolled back and has given you the power to do so within a limited time that is fast expiring. Because the new rules compromise the quality and independence of scientific review and thereby undermine effective protections for wildlife and their habitats, we urge you to take swift action to rescind the rules.

Sincerely,

*(signers listed alphabetically by state)*

cc:

The Honorable Jane Lubchenco  
Administrator, National Oceanic and Atmospheric Administration  
Room 5128  
1401 Constitution Avenue, NW  
Washington, DC 20230

The Honorable John Holdren  
Director, Office of Science and Technology Policy  
Executive Office of the President  
725 17th Street Room 5228  
Washington, DC 20502

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<sup>1</sup> Performance of the Endangered Species Act, Mark W. Schwartz, *Annu. Rev. Ecol. Evol. Syst.* 2008. 39:279–99

## INDIANA

**Jenny Bodwell, Ph.D. candidate**

Department of Biology  
Indiana State University  
Terre Haute, IN

**James Brenneman, Ph.D.**

Professor Emeritus of Biology  
University of Evansville  
Newburgh, IN

**Patrick Burton, Ph.D.**

Assistant Professor  
Department of Biology  
Wabash College  
Crawfordsville, IN

**Dale Edwards, Ph.D.**

Department of Biology  
University of Evansville  
Evansville, IN

**Brian Ernsting, Ph.D.**

Associate Professor  
Department of Biology  
University of Evansville  
Newburgh, IN

**Kevin Gibson, Ph.D.**

Associate Professor of Weed Science  
Purdue University  
West Lafayette, IN

**Robert Hunter, Ph.D.**

Chair, Research Committee  
Indianapolis Zoo  
Fishers, IN

**Amanda Ingram, Ph.D.**

Assistant Professor  
Department of Biology  
Wabash College  
Crawfordsville, IN

**Ellen Jameson, M.S.**

Research Associate  
School of Public and Environmental Affairs  
Indiana University  
Bloomington, IN

**Richard Jensen, Ph.D.**

Department of Biology  
Saint Mary's College  
Notre Dame, IN

**Vicky Meretsky, Ph.D.**

Associate Professor  
School of Public and Environmental Affairs  
Indiana University  
Bloomington, IN

**David Parkhurst, Ph.D.**

Professor, retired  
Environmental Science, Biology  
Indiana University  
Bloomington, IN

**L. Polley, Ph.D.**

Professor of Biology  
Department of Biology  
Wabash College  
Crawfordsville, IN

**Rebecca Sparks-Thissen, Ph.D.**

Assistant Professor  
Department of Biology  
Wabash College  
Crawfordsville, IN

**Gayle Tonkovich, M.S.**

Research Specialist  
Botany Department  
Field Museum of Natural History  
Whiting, IN

**Joel Vanderbush, M.S.**

Executive Director  
Education/Husbandry  
Animalia  
Indianapolis, IN

**John Whitaker, Ph.D.**

Professor of Life Sciences  
Department of Ecology and Organismal Biology  
Indiana State University  
Terre Haute, IN

## MICHIGAN

**Matthew Chatfield, Ph.D. candidate**

University of Michigan  
Ann Arbor, MI

**Tanya Dewey, Ph.D.**

Researcher  
Museum of Zoology  
University of Michigan  
Ann Arbor, MI

**Emily Farrer, Ph.D. candidate**

Department of Ecology & Evolutionary Biology  
University of Michigan  
Ann Arbor, MI

**Anna Fiedler, Ph.D. candidate**

Michigan State University  
Lansing, MI

**William Fink, Ph.D.**

Professor  
Museum of Zoology  
University of Michigan  
Ann Arbor, MI

**Lori Hertel, M.S.**

Biology Lab Director  
Department of Biology  
Hope College  
Fennville, MI

**Geoffrey Horst, M.S.**

Fisheries & Wildlife Department  
Michigan State University  
Howell, MI

**Daria Hyde, M.S.**

Conservation Scientist  
Conservation Planning  
Michigan Natural Features Inventory  
Lansing, MI

**Peter Kaplan, Ph.D. candidate**

Teacher  
Kaplan, Inc.  
Ann Arbor, MI

**Peter Kaufman, Ph.D.**

Professor of Biology  
University of Michigan  
Manchester, MI

**Jerry Lang, Ph.D.**

North Muskegon, MI

**Wei Liu, Ph.D. candidate**

Michigan State University  
East Lansing, MI

**Sheila Lyons-Sobaski, Ph.D.**

Assistant Professor  
Department of Biology  
Albion College  
Albion, MI

**Stephen Malcolm, Ph.D.**

Professor  
Department of Biological Science  
Western Michigan University  
Kalamazoo, MI

**Philip Myers, Ph.D.**

Professor  
Department of Ecology and Evolutionary Biology  
Museum of Zoology  
University of Michigan  
Ann Arbor, MI

**Michael Nelson, Ph.D.**

Professor  
Fisheries and Wildlife  
Michigan State University  
Perry, MI

**Georgia Richards, D.V.M.**

U.S. Department of Agriculture, retired  
Kentwood, MI

**John Rippon, Ph.D.**

Professor  
Medicine  
University of Chicago  
Sawyer, MI

**Catherine Riseng, Ph.D.**

University of Michigan  
Ann Arbor, MI

**Gary Roloff, Ph.D.**

Assistant Professor  
Fisheries & Wildlife Department  
Michigan State University  
East Lansing, MI

**Richard Smith, Ph.D.**

Vice President  
IA/Threefold Sensors, Inc  
Dexter, MI

**Duane Ullrey, Ph.D.**

Professor Emeritus  
Animal Science and Fisheries & Wildlife  
Michigan State University  
Okemos, MI

**Philip von Voigtlander, Ph.D.**

Research Director, retired  
CNS Research  
Pharmacia  
Northport, MI

**Kathy Winnett-Murray, Ph.D.**

Professor  
Department of Biology  
Hope College  
Holland, MI

**MINNESOTA**

**Ira Adelman, Ph.D.**

Professor  
Fisheries, Wildlife, & Conservation Biology  
Department  
University of Minnesota  
St. Paul, MN

**Richard Baker, M.S.**

Endangered Species Coordinator  
Golden Valley, MN

**Mike Davis, B.S.**

Aquatic Ecologist  
Ecological Resources  
Minnesota Department of Natural Resources  
Wabasha, MN

**William Faber, Ph.D.**

Natural Resources Instructor  
Central Lakes College  
Brainerd, MN

**Michael Fox, Ph.D.**

Veterinarian & Bioethicist  
Fox's Pen Inc Consultants  
Golden Valley, MN

**David Garshelis, Ph.D.**

Research Scientist  
Wildlife Research  
Minnesota Department of Natural Resources  
Grand Rapids, MN

**Jon Grinnell, Ph.D.**

FM Uhler Chair in Biology  
Department of Biology  
Gustavus Adolphus College  
St. Peter, MN

**Evan Hazard, Ph.D.**

Professor Emeritus  
Biology Department  
Bemidji State University  
Bemidji, MN

**Kathy Holzer, Ph.D.**

Senior Program Officer  
Conservation Breeding Specialist Group  
Northfield, MN

**Gary Huschle, M.S.**

Wildlife Biologist  
Retired, Certified Wildlife Biologist  
Leonard, MN

**Margaret Kuchenreuther, Ph.D.**  
Associate Professor of Biology  
Division of Science and Mathematics  
University of Minnesota, Morris  
Morris, MN

**Beaulin Liddell, M.S.**  
Area Wildlife Supervisor  
Section of Wildlife Management  
Minnesota Department of Natural Resources  
Little Falls, MN

**John Loegering, Ph.D.**  
Associate Professor  
University of Minnesota  
Crookston, MN

**Ulrike Munderloh, Ph.D.**  
Associate Professor  
Department of Entomology  
University of Minnesota  
Roseville, MN

**Michael North, M.S.**  
Environmental Assessment Ecologist  
Minnesota Department of Natural Resources  
Pillager, MN

**Kathleen Shea, Ph.D.**  
Professor of Biology  
Department of Biology  
St. Olaf College  
Northfield, MN

**Sue Wick, Ph.D.**  
Professor  
Department of Plant Biology, Biology Program  
University of Minnesota  
St. Paul, MN

**Kevin Zippel, Ph.D.**  
Program Director  
Amphibian Ark  
Apple Valley, MN

## OHIO

**Volker Bahn, Ph.D.**  
Assistant Professor  
Department of Biological Sciences  
Wright State University  
Dayton, OH

**Anne Baker, Ph.D.**  
Executive Director/CEO  
Toledo Zoological Gardens  
Waterville, OH

**Michael Barrie, D.V.M.**  
Director of Animal Health  
Columbus Zoo  
Powell, OH

**Richard Berry, Ph.D.**  
Preventive Medicine  
Ohio Department of Public Health, retired  
Columbus, OH

**Richard Bradley, Ph.D.**  
Associate Professor  
Evolution, Ecology, and Organismal Biology  
Ohio State University  
Delaware, OH

**A. Gandolf, D.V.M.**  
Veterinarian & Research Associate  
The Wilds  
Zanesville, OH

**Jennifer Gillen, M.S. candidate**  
Department of Environmental and Plant Biology  
Ohio University  
Zaleski, OH

**Sarah Harrelson, M.S.**  
Botanist  
Ecology & Wetlands  
Hull & Associates  
Dublin, OH

**Martin Hilovsky, M.S.**  
President  
EnviroScience, Inc.  
Stow, OH

**Martin Huehner, Ph.D.**  
Senior Scientist  
Freshwater Mussel Division  
EnviroScience, Inc.  
Blacklick, OH

**Jamie Krejsa, B.S.**  
Director of Ecological Services  
Ecological Division  
EnviroScience, Inc.  
Stow, OH

**Robert Lacy, Ph.D.**  
Senior Conservation Scientist  
Chicago Zoological Society  
Waterville, OH

**Timothy Matson, Ph.D.**  
Curator and Head  
Vertebrate Zoology  
Cleveland Museum of Natural History  
Cleveland, OH

**Eric Maurer, Ph.D.**  
Director  
Center for Environmental Studies  
University of Cincinnati  
Cincinnati, OH

**Carl McDaniel, Ph.D.**  
Visiting Professor  
Environmental Studies  
Oberlin College  
Oberlin, OH

**Timothy Muir, Ph.D. candidate**  
Department of Zoology  
Miami University  
Oxford, OH

**Jeff Niehaus, B.S.**  
Biologist  
Ecological  
EnviroScience, Inc.  
Stow, OH

**Marilyn Norconk, Ph.D.**  
Professor  
Department of Anthropology  
Kent State University  
Youngstown, OH

**Joseph Papineau, M.S.**  
GIS Analyst / Biologist  
Ecological Services  
EnviroScience, Inc.  
Stow, OH

**Shannon Poling, M.S. candidate**  
Biological Anthropology  
Kent State University  
Akron, OH

**Thomas Rooney, Ph.D.**  
Assistant Professor  
Department of Biological Sciences  
Wright State University  
Dayton, OH

**Debra Shankland, B.S.**  
Naturalist  
Cleveland Metroparks  
Peninsula, OH

**Michael Sitvarin, M.S. candidate**  
Department of Zoology  
Miami University  
Oxford, OH

**Victoria Snyder, M.S. candidate**  
Mount Union College  
Alliance, OH

**Kristin Stanford, Ph.D. candidate**  
Research Associate  
Department of Biological Science  
Northern Illinois University  
Put-In-Bay, OH

**Harry Stone, Ph.D.**  
Miami University  
Cincinnati, OH

**Yvonne Vadeboncoeur, Ph.D.**  
Associate Professor  
Department of Biological Science  
Wright State University  
Dayton, OH

**Courtney Van Voorhis, M.S.**  
Lab Manager  
EnviroScience, Inc.  
Uniontown, OH

**Michael Vincent, Ph.D.**  
Curator  
Department of Botany  
Miami University  
Oxford, OH

**James Zagray, M.S.**  
High School Biology Teacher  
Streetsboro, OH

## WISCONSIN

**Richard Beilfuss, Ph.D.**  
Vice President  
Director of Programs  
International Crane Foundation  
Madison, WI

**John Berges, Ph.D.**  
Associate Professor  
Department of Biological Science  
University of Wisconsin, Milwaukee  
Milwaukee, WI

**Mark Bergland, Ph.D.**  
Professor of Biology  
Department of Biology  
University of Wisconsin, River Falls  
River Falls, WI

**Gretchen Cole, D.V.M.**  
Department of Surgical Sciences  
University of Wisconsin  
Madison, WI

**David Coyle, Ph.D. candidate**  
Department of Entomology  
University of Wisconsin  
Madison, WI

**Noel Cutright, Ph.D.**  
Emeritus Scientist  
Wisconsin Society for Ornithology  
West Bend, WI

**Tracy Feldman, Ph.D.**  
Assistant Professor  
Department of Biology  
University of Wisconsin, Stevens Point  
Stevens Point, WI

**Glen Fredlund, Ph.D.**  
Associate Professor  
Conservation and Environmental Science  
University of Wisconsin, Milwaukee  
Shorewood, WI

**Joseph Gathman, Ph.D.**  
Assistant Professor  
Department of Biology  
University of Wisconsin, River Falls  
River Falls, WI

**Paul Gibbons, D.V.M.**  
Vice President  
Assoc Reptilian Amphibian Veterinarians  
Lannon, WI

**Keith McCaffery, M.S.**  
State Deer Biologist (retired)  
State of Wisconsin  
Rhineland, WI

**Curt Meine, Ph.D.**  
Director for Conservation Biology  
Center for Humans and Nature  
Prairie du Sac, WI

**Heather Mohan, M.S.**  
Animal Behaviorist  
Collected Wisdom Animal Behavior, LLC  
Lannon, WI

**William Mueller, M.S.**  
Ornithologist  
Wisconsin Society for Ornithology  
Milwaukee, WI

**Anna Pidgeon, Ph.D.**  
Assistant Professor  
Forest and Wildlife Ecology  
University of Wisconsin, Madison  
Mazomanie, WI

**Amber Qureshi, M.S.**  
Department of Biology  
University of Wisconsin, River Falls  
River Falls, WI

**David Rogers, Ph.D.**

Assistant Professor  
Department of Biological Science  
University of Wisconsin, Parkside  
Kenosha, WI

**Nicanor Saliendra, Ph.D.**

Forest Biometeorologist  
Center for Urban Environmental Research  
University of Maryland, Baltimore County  
Rhineland, WI

**Richard Sim, D.V.M.**

University of Wisconsin  
Madison, WI

**Yoyi Steele, M.S.**

Wildlife Biologist  
Wildlife Management  
Wisconsin Department of Natural Resources  
Madison, WI

**Robert Stelzer, Ph.D.**

Associate Professor  
Department of Biology  
University of Wisconsin, Oshkosh  
Oshkosh, WI

**John Stewart, Ph.D.**

Emeritus Professor of Psychobiology  
Department of Psychology and Biology  
Northland College  
Washburn, WI

**Kenneth Stromborg, Ph.D.**

The Wildlife Society  
Denmark, WI

**David Toland, M.S.**

Geography Department  
University of Wisconsin, Madison  
Madison, WI

**Donald Waller, Ph.D.**

Professor  
Botany Department  
University of Wisconsin  
Madison, WI

**Jane Wiedenhoft, M.S.**

Database & GIS Specialist  
Bureau of Endangered Resources  
Wisconsin Department of Natural Resources  
Park Falls, WI

**Theresa Wusterbarth, Ph.D.**

Northeast Wisconsin Technical College  
Green Bay, WI

**Paul Zedler, Ph.D.**

Professor  
University of Wisconsin, Madison  
Madison, WI