

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

## **U.S. TERRITORIES AND AMERICANS LIVING ABROAD**

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