



SPECIAL REPORT

Western Governors' Species Conservation and Endangered Species Act Initiative

The Chairman's Initiative of Wyoming Governor Matthew H. Mead

JUNE 2016



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SPECIAL REPORT

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The Chairman's Initiative of
Wyoming Governor Matthew H. Mead





WYOMING GOVERNOR
MATTHEW H. MEAD
WGA Chairman

Dear Friends and Colleagues,

Those of us fortunate to live in the West understand the thrill of a trout jumping in the stream, a deer still and alert in the aspen, or a grizzly bear foraging for berries. Wildlife in all forms adds wonder to our days and contributes to our economy. Our wildlife and wide-open spaces are integral to the West. This is why states should lead species conservation efforts with a goal of eliminating the need for federal protection of species.

When species are listed under the Endangered Species Act (ESA), the directive should be bigger than preventing extinction. It should be recovery and when a species is recovered it should be delisted so resources can be redirected to protect another species that is truly imperiled. The current implementation of the ESA often deters meaningful conservation efforts and divides, rather than unites people.

As Chairman of the Western Governors' Association (WGA), I helped lead a bipartisan dialogue on this topic through the **Species Conservation and Endangered Species Act Initiative**. Four workshops, five webinars and other outreach efforts were hosted around the West. A broad spectrum of stakeholders came together to share best practices in species conservation and

take a hard look at the ESA – how it is working and how it is not working.

Thousands of people attended the discussions, watched videos and shared ideas to improve the ESA. The information and recommendations received are informing WGA policy on species conservation and the ESA. States should be active partners with the federal government in implementing the ESA.

This report synthesizes much of the information developed through the Initiative. It marks only the beginning of a long journey to improving the ESA. I ask you to continue thought-provoking and pragmatic dialogue on these issues. Over the coming months and years, I am excited to work with the WGA and a broad coalition of stakeholders on solutions for a vibrant and thriving wildlife population – solutions good for people and wildlife across the West and the nation.

Sincerely,

A handwritten signature in white ink, appearing to read "Matthew H. Mead". The signature is fluid and cursive, written on a dark background.

Matthew H. Mead, Wyoming Governor



JAMES D. OGSBURY
WGA Executive Director

Dear Friends of the West,

When **WGA Chairman Matt Mead** first revealed his intention to pursue an initiative involving an examination of the Endangered Species Act, I had my concerns. The politics of ESA are fraught with controversy, and I wasn't quite sure how WGA would manage a big-tent conversation around such a volatile topic. Perhaps, I suggested to the Governor, we could take on something a little easier – like peace in the Middle East.

Governor Mead, however, was determined to move forward. Yes, it is a difficult issue, but who is better situated and prepared to take it on than Western Governors?

What has ensued is a remarkably adult and evenhanded dialogue about the ESA and species conservation. Gathering stakeholders of all stripes – from industry executives to conservationists, from state and federal officials to attorneys, from farmers to hunters – the initiative sponsored a series of deeply substantive workshops and webinars at which diverse voices were heard in an environment of respect and civility.

What made the difference? Why were these ESA discussions so productive while so many others have flown off the rails?

The difference was the personal engagement and commitment of Western Governors, the most pragmatic group of leaders for whom I have ever had the honor to work. Their leadership established a tone of comity and cooperation that infused the work of the hundreds of participants in these proceedings.

The hard work of the initiative has just begun. The effort will inform future WGA policy on ESA and species conservation, and the Association is eager to advance the principles embodied in such policy. As we do so, we will be guided by the same spirit of bipartisanship and good will that has characterized the initiative to date.

Respectfully,

A handwritten signature in black ink that reads "Jim Ogsbury". The signature is fluid and cursive, with a large, sweeping flourish at the end.

James D. Ogsbury, WGA Executive Director

EXECUTIVE SUMMARY

As Chairman of the Western Governors' Association, Wyoming **Governor Matt Mead** launched the [Western Governors' Species Conservation and Endangered Species Act Initiative](#) in June of 2015. The Chairman's Initiative has since: created a mechanism for states and stakeholders to share best practices in species management; promoted the role of states in species conservation; and explored options for improving the efficacy of the **Endangered Species Act (ESA)**.

Experts, observers and wildlife managers acknowledge that, in the 43 years since the 1973 passage of the ESA, changes to the Act are warranted. Regardless, proposed amendments to the Act are frequently opposed on the basis that any change represents the first step in dismantling the ESA. The WGA Chairman's Initiative has taken a significant step toward changing that narrative and will continue to advance that purpose in the years to come.

While the Initiative has examined the ESA to determine what is working and what is not, the effort goes well beyond consideration of the Act alone. One of the purposes of the Initiative is to avoid the need to list a species in the first place, through early identification of sensitive species and establishment of institutional frameworks that encourage collaborative voluntary conservation.

The Initiative has generated input from a wide spectrum of stakeholders for Western Governors to consider. This was accomplished in part through [workshops](#) hosted by **Governor Matt Mead** in Wyoming, as well as **Gov. C.L. "Butch" Otter** in Idaho and **Gov. David Ige** in Hawaii. **Gov. John Hickenlooper** was joined at his Colorado workshop by **Gov. Mead**. In all, more than 500 attendees participated in the workshops.

To expand the reach of the Initiative, all workshops were "livestreamed" on the web and posted [to YouTube](#). WGA hosted a series of [webinars](#) (also available [on YouTube](#)) highlighting case studies and offering analysis of key issues in species conservation and the ESA. Since the first workshop in November of 2015, the Initiative's videos have been viewed roughly 4,500 times.



Governor Matt Mead spoke at Chairman's Initiative workshops in Wyoming and Colorado.

To ensure that all of the material from workshops and webinars remain readily available, WGA has launched a [website](#) for the Chairman's Initiative. The site includes [conservation resources](#) and best practices, as well as *Species Spotlight*, a case study series examining challenges and opportunities in species conservation. WGA will continue to update the website to present the latest on species conservation and the ESA.



Western Governors, from left, C.L. “Butch” Otter (Idaho), John Hickenlooper (Colorado), and David Ige (Hawaii) hosted and spoke at Chairman’s Initiative workshops in their home states.

Through the Initiative, WGA has compiled and synthesized a vast array of information, expertise and ideas on improving species conservation efforts and ESA efficacy. Generally, this information can be organized by the following themes.

Incentivizing Proactive Voluntary Conservation:

A prominent theme is the use of voluntary conservation as a means of pre-empting the need to list a species in the first place and effectively recovering imperiled species.

The Role of State and Local Governments in Species Conservation and ESA Implementation:

Workshops featured the robust engagement of local, state and federal wildlife experts who discussed how state resources – including data, science, analyses and manpower – can be better leveraged for the benefit of species.

Landscape Level Conservation and Ecosystem Management:

This initiative examined the merits and applicability of landscape-level conservation strategies, in prelisting species conservation efforts and implementation of the ESA. Initiative participants have emphasized the feasibility of these efforts and how to fund and implement them.

Investment in Science and Measurable Outcomes: The use of science is fundamental to nearly all of the Initiative themes. Workshops and webinars, as well as responses to WGA questionnaires, highlighted concepts such as uncertainty and risk, peer review, best available science,

Join the Conversation

WGA launched a website that hosts content for the **Chairman’s Initiative**. Visit the website to watch videos of all workshop sessions, as well as webinars, conservation resources and the case study series *Species Spotlight*. WGA also has created the **Chairman’s Initiative Appendix**, a document with expanded detail on conversations at each workshop. **Join the conversation at:**



westgov.org/initiatives/esa-initiative

and the role of stakeholders in ESA scientific decisions.

Listing, Recovery and Delisting Process of the ESA:

Panelists discussed each step in the ESA process, from petitioning to delisting.

Law and Policy Recommendations:

Examination of discrete elements of the statutory and regulatory aspects of the ESA has been an essential component of the Initiative. The role of litigation in the ESA has also been an area of substantial focus.

The work of the **Western Governors’ Species Conservation and Endangered Species Act Initiative** has just begun. WGA will continue the work launched by Gov. Mead in the months and years to come with a focus on improving all aspects of species conservation for the mutual benefit of wildlife and people of the West.

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ON THE WEB

WGA launched a website for the Chairman's Initiative that includes videos of workshops, case studies and much more. WGA also created the Chairman's Initiative Appendix, a document with expanded detail on conversations at each workshop. **Page 28**

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Chairman's Initiative Report

WORKSHOPS

Regional [workshops](#) in [Wyoming](#), [Idaho](#), [Colorado](#) and [Hawaii](#) represented a mechanism for state, local and federal wildlife experts – along with representatives from industry, conservation, academic and legal organizations – to engage in a bipartisan discussion on species conservation and the Endangered Species Act (ESA, the Act).

Workshops varied in location and issues addressed, and all sessions employed roundtable discussions. Panelists provided opening remarks on a particular issue before engaging in a free-wheeling conversation with other panelists. Audience members were encouraged to react to points advanced by the panel and ask questions.

The workshops also featured facilitated [breakout sessions](#) on issues relating to species conservation and the ESA. Following the roundtable discussions, participants were randomly assigned to groups with mixed-sector representation to discuss key themes in greater depth.

Participants were sent a questionnaire following each

workshop. These questionnaires, based on analysis of feedback received in the workshop, were designed to solicit more input and deeper analysis.

Workshops evolved in structure and content as the Initiative progressed. Issues that arose at one workshop were often highlighted in subsequent workshops to elicit further depth, diversity of opinion and clarity.

In addition to highlighting key themes derived from previous workshop sessions, topics addressed in Chairman's Initiative webinar discussions and questionnaire responses were also included as topics for discussion as the Initiative progressed.



The Hawaii workshop in Honolulu was hosted by Governor David Ige, who also delivered a keynote address.

Cody, Wyoming

November 12-13, 2015

WGA Chairman and Wyoming **Governor Matt Mead** hosted the [first workshop](#) of the *Western Governors' Species Conservation and Endangered Species Act (ESA) Initiative* in Cody, Wyoming. The workshop involved a series of sector-specific panel discussions designed to illustrate innovations in species conservation and to identify challenges and opportunities in implementing the ESA. Participants developed topics warranting more in-depth examination and analysis during subsequent workshops and phases of the Initiative.

[Keynote: Wyoming Governor Matt Mead](#)

Governor Mead welcomed participants and noted that they represented a diverse spectrum of viewpoints. The governor emphasized that species should be delisted once fully recovered. He offered the roughly 1% success rate in delisting due to recovery as evidence that the ESA is not doing its job to recover and ultimately delist species. The governor also cited more than a decade

of litigation surrounding gray wolf recovery (despite near universal agreement that wolves have recovered) as a fundamental example of the shortcomings of the ESA. Finally, Governor Mead cited the historic collaborative conservation work performed by western states to prevent a listing of the greater sage-grouse as threatened or endangered as proof that the ESA can work more effectively when “we all come together and have confidence that people of good faith with good intentions can work together.”

Panel Highlights

Energy and Mining: Panelists discussed the need for a landscape-level approach to conservation that maximizes benefits for species and reduces unintended consequences (particularly with respect to the resource requirements of other species). Panelists also identified challenges encountered in the ESA in the form of statutory timelines, availability of peer-reviewed science, and limited opportunity for state-led conservation. Finally, panelists touched on the importance of regulatory certainty, and the value of – and challenges associated with – incentive-based partnerships.



Wyoming Governor Matt Mead, WGA Chairman, noted in his keynote at the Cody workshop that the ESA can work more effectively when “we have confidence that people of good faith with good intentions can work together.”

Sportsmen, Recreation and Environmental Interests:

Panelists emphasized the benefits of moving past a reactionary model of species conservation and the need for clear, science-based decision-making and regulatory goals. They also highlighted specific tools to engage landowners in proactive voluntary conservation and conservation incentives for the benefit of multiple species in an ecosystem.

Agriculture and Forestry: Highlights included a discussion of how statutory timelines can impact voluntary conservation work, the necessity of collaboration and regulatory certainty for agricultural producers, challenges in delisting species, and how to share the

economic burden of recovery costs.

Government and Quasi-Governmental Entities: Panelists emphasized the inclusion of state and local expertise in listing decisions, critical habitat development and recovery planning, and delisting under the ESA. They discussed the realities of managing species across multiple land-ownership and political boundaries. They agreed that, generally speaking, one-size-fits-all management plans are ineffective at adapting to local needs and concerns.

Roundtable Recovery and Delisting: The complex implications of listing and delisting decisions on inter-

WEBINAR: Voluntary Species Conservation Incentives and Collaboration

The role of cooperation and voluntary action in species conservation was the focus of this discussion. Panelists used the reintroduction and recovery of the black-footed ferret, listed as endangered since 1967, as an example of the vital role that private landowners play in species recovery. The webinar also explored the significance of financial and regulatory assurances to facilitate private landowner conservation action. A sample of participants' comments:

"I am thoroughly convinced that this is the way to approach black-footed ferret recovery and probably the way to recover many other species – that is, the voluntary, non-regulatory approach that we developed for the black-footed ferret. I am convinced that we can get these species recovered."

John Emmerich, Deputy Director, retired, Wyoming Game and Fish

"If a private landowner is going to provide a place for wildlife, and the public is going to receive the good from the wildlife being there, then the public has got to help pay for the management of that wildlife."

Pete Gober, Black-footed Ferret Recovery Coordinator, U.S. Fish and Wildlife Service



"Our lifestyle (as a rancher) is a bit different than most of society, in that we live every day with wildlife. Because of that, we see wildlife in a different aspect than the recreationists who view them or hunt them. We even see them differently than the agency folks who strive to manage them. We are with them every single day."

Todd Heward, Wyoming rancher

"I was pessimistic about being able to recover black-footed ferrets. Looking at private lands has really increased my optimism ... Being able to really look at private lands as a mechanism with which to recover black-footed ferrets has greatly increased my

optimism and hope that we can complete this goal."

Tom Dougherty, Western Division Staff Director, retired, National Wildlife Federation

The [black-footed ferret] safe harbor agreement, without question, is one of the best documents that I've seen in 41 years of working on private land management. It not only protects the landowner but also the neighbors and anyone who might be affected by our recovery efforts."

Ken Morgan, Private Lands Program Manager, Colorado Parks and Wildlife

Watch all of the Chairman's Initiative webinars, along with the Initiative workshops, on the [YouTube page](#) of the Western Governors' Association.

state species and geographically distinct populations were the focus of this panel. Other topics included the benefits of state involvement in recovery plan development and the challenges associated with planning the recovery of species listed due to climate change. Additionally, speakers analyzed delisting criteria and defined management goals.

Roundtable: Innovative Conservation Practices and Tools:

Speakers and participants discussed how proactive and predictive programs can be successful in empowering locally-driven, on-the-ground conservation efforts, obviating the need for an ESA listing. Panelists also discussed strategies for outcome-based conservation and the role industry and private landowners play in conserving large tracts of land.

Breakout Session Highlights

The workshop's facilitated [breakout sessions](#) drew on the collective experience of workshop participants for purposes of identifying and discussing species management challenges and opportunities for improvement of the ESA – and species conservation more generally. Breakout sessions were initially divided into sector-specific groups. Facilitators asked each group to identify and discuss both specific examples of success in conservation and challenges or opportunities for improvement in the ESA.



Gary Frazer, Assistant Director of Ecological Services for the U.S. Fish and Wildlife Service, spoke at the Cody workshop.



Ed Arnett, Senior Scientist at Theodore Roosevelt Conservation Partnership, took part in a panel at the Wyoming workshop.

Next, breakout groups were randomly re-distributed into mixed-sector groups where the discussion and ideas generated from the first session were evaluated on merit and feasibility in a facilitated discussion.

The resulting discussion generated 45 ideas for improving voluntary species conservation efforts and the efficacy of the ESA. Ideas emerging from the Cody breakout sessions – when combined with follow-up questionnaire responses – served as the foundation for future roundtable discussions and webinar topics as the Initiative gained momentum.

Major categories of suggestions emerging from Cody included:

- Landscape-Level Conservation and Ecosystem Management
- Science and Measurable Outcomes
- Incentives and Proactive Conservation Efforts
- Economic Analyses
- Funding
- State and Local Coordination
- Collaboration
- Delisting and Recovery Goals
- Timelines
- Law and Policy Improvements
- Values and Principles

Read expanded detail shared by participants in Cody roundtables and breakout sessions in the [Chairman's Initiative Appendix](#), which can be found online at westgov.org/initiatives/esa-initiative



Idaho Governor C.L. "Butch" Otter held a press conference at the Boise workshop.

Boise, Idaho

January 19, 2016

The workshop hosted by **Idaho Governor C.L. "Butch" Otter** in Boise drilled deeply into species conservation and ESA issues that arose at the initial [workshop](#) in Wyoming. While the inaugural workshop was designed to elicit a broad range of thought on improving species conservation efforts and the ESA, the Boise workshop was structured to elicit more refined and targeted analysis of those issues.

[Keynote: Idaho Governor C.L. "Butch" Otter](#)

Governor Otter urged participants to be, "willing to engage, to listen to the other side's point of view.

Being part of the process, being part of the solution, and being seriously considered with our ideas, is what matters and will continue to matter." The governor also pointed to the challenges the ESA can present in the form of lengthy timelines for recovery planning and a lack of transparency and consistency in listing species. He emphasized the importance of locally-driven collaborative conservation efforts.

Roundtable Highlights

[Role of State and Local Governments in Species Conservation and the ESA:](#)

Participants and panelists discussed state and locally-led collaborative voluntary conservation initiatives as models for future conservation efforts (e.g. the Owyhee Initiative and the Western Association of Fish and Wildlife Agencies' Lesser Prairie-Chicken Range-Wide Conservation Plan).

Best Available Science: Panelists examined the limitations and advantages of peer-reviewed science and the role of stakeholders in evaluating scientific determinations. Definitions of what ESA’s “best available science” mandate means were offered, as well as suggested guidelines for agency processes.

Critical Habitat Designations: Roundtable discussion focused on the consideration of current vs. historic range of a species. Also, participants discussed the importance of focusing on habitat quality and functionality – rather than simply acreage – when assessing a species’ critical habitat.

Recognition of Voluntary Conservation Efforts: Panelists discussed the need for adaptability in species management efforts and the ESA’s ability to allow such flexibility, as well as long-term conservation of a species even after delisting. They also considered how to simplify existing mechanisms for voluntary conservation, particularly Candidate Conservation Agreements and

Candidate Conservation Agreements with Assurances. They also discussed the merits of market-based solutions with a variety of entry and exit points.

Landscape-Level Conservation and the Provision of Incentives for Private Land Owners: Panelists discussed the benefits and disadvantages of landscape-level conservation *vis-a-vis* single-species efforts. Benefits of a landscape approach include greater room for creativity and more stakeholder options. Disadvantages include regulatory and administrative uncertainty.

Breakout Session Highlights

Breakout groups were tasked with discussing and further analyzing some of the major themes identified in the Cody workshop. Workshop participants were identified by sector and then randomly distributed to ensure balance of perspectives in each breakout session. Groups engaged in a facilitated discussion on the following themes developed at the Cody workshop.

WEBINAR: Critical Habitat and Invasive Species

Aquatic species experts discussed the substantial threat that invasive species such as quagga mussels and lake trout pose to western ecosystems, including critical habitat for threatened and endangered species such as Lahontan cutthroat trout. Panelists shared that an ounce of prevention is worth a pound of cure when it comes to invasive species. In the event that invasive species do spread, a rapid, well-funded and coordinated response is the best alternative for native species conservation and recovery.

A sample of participants’ comments:

“It’s important to really look at a regional coordination strategy for invasive species. There need to be more mechanisms to actually achieve that on the ground... It’s

important for states to look at how they’re addressing rapid response.”

Matt Morrison, Chief Executive Officer, Pacific Northwest Economic Region



“There are times when management decisions simply go to the will of the public... The will of the public does become very important, and it behooves us to try to educate the public about the importance of native aquatic species and the threats they are under in their entire range.”

David Sweet, Yellowstone Lake Special Project Manager, Wyoming Trout Unlimited

“Anytime that we can get landowner participation and cooperation, it’s been a huge factor for success. It all boils down to relationships – relationships with your federal partners, relationships with Fish and Wildlife, and relationships with private landowners.”

Chris Crookshanks, Native Aquatics Staff Specialist, Nevada Department of Wildlife



It didn't matter if you were a keynote speaker, panelist or attendee at a Chairman's Initiative workshop. Everyone had a chance to take part in the dialogue and shape the conversation.

Proactive Voluntary Conservation and Incentives: Seven recommendations emerged from this breakout session: recognize mutual gains; enable adaptive management; focus on ecological services; collaborate; communicate; use creative funding mechanisms; and coordinate the timing of actions.

Role of Federal, State and Local Governments and Tribes:

Discussion in this session focused on: the need for an early and robust planning process; state and federal funding mechanisms and the need for consistency in managing those funds; and early identification by state and local government leaders of appropriate stakeholder groups and their empowerment early in the listing process.

Listing/Recovery/Delisting – Implementation under the ESA:

This breakout group focused on topics related to the implementation of the Act. Topical highlights included: timing and merits of economic impact analyses; the integration of adaptive management into the process; evaluation of timelines associated with the Act; and analysis of the recovery planning process.



Landscape-Level Conservation and Ecosystem Management:

Conversation centered on the feasibility and necessity of ecosystem considerations before and after species listings. The group discussed whether integration of multi-species, ecosystem-level conservation strategies would improve the efficacy of the Act. The discussion included integration of landscape-level conservation into prelisting conservation and certain ESA processes.

Read expanded detail shared by participants in Boise roundtables and breakout sessions in the [Chairman's Initiative Appendix](#), which can be found online at westgov.org/initiatives/esa-initiative



Denver, Colorado

March 9-10, 2016

The [Denver workshop](#) hosted by Colorado **Governor John Hickenlooper** (and attended by **Governor Matt Mead**) involved a deeper examination of issues presented at previous workshops and webinar sessions. The primary objective of the Colorado meeting was to move beyond identification of issues, objectives and opportunities, and begin to address feasibility of, and implementation options for, previously identified concepts. This was accomplished in part through roundtable discussions on funding for species conservation efforts, a legal analysis of the ESA and a series of facilitated breakout discussions.

Keynote: [Colorado Governor John Hickenlooper](#)

Governor Hickenlooper welcomed participants and pointed to the extensive list of partnerships that led to the historic “not warranted” listing decision for greater sage-grouse. The governor noted that, while everyone is aware of the difficulties that the ESA can present at times, “these challenges don’t exist exclusively because of the law, but many times because we don’t have the framework for collaboration.”



The strong bipartisan work of the Western Governors’ Association was on display when Governor Mead joined Governor Hickenlooper at the Denver workshop.

Keynote: [Wyoming Governor Matt Mead](#)

Governor Mead joined Governor Hickenlooper in describing the work performed on greater sage-grouse conservation as a model of successful collaborative conservation. Additionally, Governor Mead spoke to the challenges associated with species recovery and delisting

under ESA, stating that, “you have to have a way to reach the goal line. All too often we have gone to great lengths to successfully recover a species and all we have to show for it is another court battle. We need to do better to prevent listings, and if a species is listed, have a clear path to successful recovery, celebrate that success, and move on to the next species.”

Roundtable Highlights

State & Local Government Leadership in Species Conservation Efforts: Panelists highlighted a variety of state and county-led species conservation initiatives and efforts,

including bipartisan state legislation, county-level data-sharing agreements and multi-party conservation agreements. Challenges to effective collaboration and conservation include inadequate agency funding, regulatory ambiguity and short timelines – all of which can precipitate litigation.

Stakeholder Perspectives on Species Conservation and the ESA: This candid moderated discussion focused on key themes developed in previous Initiative workshops. Among other things, panelists discussed: analysis of the effectiveness of collaborative processes; creation of a

WEBINAR: The Role of Conflict and Litigation in the Endangered Species Act

This conversation highlighted litigation’s role in shaping the ESA’s implementation. Panelists examined how litigation enables or impedes innovative species conservation efforts, especially inclusive partnerships such as those involved with the conservation of the lesser prairie chicken and greater sage-grouse. They also discussed the increasingly important role of states in species conservation and the flexibility of the ESA to enhance that role. A sample of participants’ comments:

“Without question the ESA is the most challenging statute out there in the natural resources world and probably the most impactful ... It was put in place more than 40 years ago and has only had a couple of significant legislative tweaks since. It’s kind of amazing that it has survived as long as it has, and one of the messages I think is that the statute is somewhat more flexible than most people think in terms of how it can be implemented and its implementation has evolved over the years in part by litigation.”

John Leshy, Emeritus Professor, U.C. Hastings College of the Law, and Solicitor of the Interior Department, 1993-2001

“With regard to landscape-scale conservation, or mitigation of the kind reflected in the President’s recent policy, or attempts at ecosystem management, incentives, prelisting conservation, advance mitigation – all of these newer and more nuanced approaches are not embodied in the Endangered Species Act and will not be resolved or promoted as I believe they should be through resort to litigation.”

Douglas Wheeler, Partner, Hogan Lovells LLP



“One question to consider is whether litigation can be used to foster new kinds of innovation, new tools, or new avenues that will lead to more creative and successful conservation efforts, with more broadly based support. The MDL

decision deadlines may be an example of this. While no one likes to operate within the constraints of strict deadlines, they can – if they are far enough off in the future – serve as a driver to getting collaborative efforts off the ground and finalizing agreements. Another area that we are interested in is the extent to which we can continue partnerships and collaboration while litigation is ongoing. We have seen success in Colorado in continuing Gunnison sage-grouse conservation efforts with SGI, federal agencies and local communities despite the pending litigation concerning the listing decision.”

Lisa Reynolds, Assistant Attorney General, State of Colorado

“Litigation can promote species recovery. I’m not saying it is always the most efficient or even the best way to get things done, but over the life of the ESA it has been a critical tool for getting species the protections they need and on the road to recovery... Litigation (also) is enforcement. Congress, in its wisdom, not only for the ESA but most of our environmental laws, saw fit to empower citizens to act as private attorneys general to enforce the law.”

Jason Rylander, Senior Staff Attorney, Defenders of Wildlife

culture of stewardship and voluntary conservation at the local level; landscape-level conservation; species listing and recovery; and regulatory assurances and credits for voluntary conservation actions.

Species Conservation Funding: Discussion focused on innovative and effective mechanisms to leverage funding from federal, state, local and private sources. Panelists highlighted a variety of innovative programs ranging from user-funded programs that implement mitigation efforts to partnerships between federal agencies. Additionally, multiple panelists discussed how to make the most of funding that already exists and suggested means to better allocate existing dollars.

Legal Analysis of the Endangered Species Act: This wide-ranging discussion focused on addressing concerns with the ESA through specific statutory and regulatory changes. Discussion also addressed litigation, the Act's citizen suit provisions, critical habitat, and cooperative federalism.

Breakout Session Highlights

Breakout groups were assigned to discuss and further analyze some of the major themes identified in the Cody workshop and refined in Boise. Given the emphasis on addressing the feasibility of, and implementation options for, previously identified concepts, a large portion of the meeting was devoted to facilitated breakout discussions on the issues.

As in the Boise workshop, breakout participants were identified by sector and randomly distributed among groups to ensure a balance of perspectives in each session. Following a 90-minute discussion, participants were encouraged to switch topics and self-select subjects to discuss. This allowed for deeper analysis of the ideas under consideration. Breakout groups were divided into the following subjects.

Multi-species and Ecosystem Management: This group focused on the feasibility and desirability of implementing multi-species conservation efforts under the current framework of the ESA. Participants highlighted the need for definition around programs incentivizing landscape-level conservation and also discussed elements of risk, funding, and incentives for prelisting approaches to multi-species projects.

Proactive Voluntary Conservation Efforts and Incentives: Participants identified and discussed potential barriers to voluntary conservation programs, as well as practical considerations for incentivizing proactive conservation.



The Denver Workshop included panels on species conservation funding and a legal analysis of the Endangered Species Act.

Key themes included: Early identification of landscapes and species fit for incentive-based programs; the provision of flexibility while maintaining regulatory assurances; transparency and consistency; acceptance of imperfection and risk; and the creation of trust and institutional awareness.

Listing, Recovery and Delisting Process: This group dissected the ESA process, from petitioning to delisting, and identified specific challenges and potential means of addressing them. Themes from the discussion included: timelines for ESA decisions; clarity, consistency and early recovery planning; communication around the petition process; emphasis on recovery defined by objective data; litigation limitations; climate change and the ESA; and funding and capacity.

State and Local Coordination and Involvement: This group focused on: ensuring opportunities for meaningful input by state and local governments; promoting success in collaborative efforts; proactive ecosystem planning; eliminating unfunded mandates; recognizing previous work; increasing state and local involvement in post-listing implementation; and considering economic costs and benefits of species recovery.

Law and Policy: This group addressed elements of ESA law and policy that were identified in previous workshops. Key discussion topics included: deadlines as a driver for litigation; antagonism and polarization; trust and cooperation; analysis of specific sections of the Act; and cooperative federalism.

Read expanded detail shared by participants in Denver roundtables and breakout sessions in the [Chairman's Initiative Appendix](#), which can be found online at westgov.org/initiatives/esa-initiative



Hawaii Governor David Ige's keynote at the Honolulu workshop acknowledged, "It will take a great effort to balance the needs of the species here with the needs of Hawaii's human inhabitants."

Honolulu, Hawaii

April 7-8, 2016

The [workshop](#) hosted by Hawaii **Governor David Ige** in Honolulu examined issues unique to coastal environments and marine species conservation. While new issues and species were introduced into the conversation, the discussion remained focused on an examination of key themes that emerged at previous Initiative workshops. Despite the workshop's location in Hawaii – home to some of the most unique and imperiled species in the United States – this workshop focused on themes relevant to all coastal states.

[Keynote: Hawaii Governor David Ige](#)

Governor Ige noted that, due to the unique and isolated nature of the islands, Hawaii is the endangered species

capital of the world. "It will take a great effort to balance the needs of the species here with the needs of Hawaii's human inhabitants," he said. The Governor pointed to the difficulty of aligning wind energy development with species protection under the ESA and emphasized that, "we take direction from native Hawaiians who were the first stewards of these islands."

Other Presentations

[Species Conservation from a Cultural Perspective:](#) Dr. Sam 'Olu Gon III, Senior Scientist & Cultural Advisor with the Nature Conservancy Hawaii, provided insight into the close connection between Hawaiian culture and Hawaii's species and ecosystem. Material and spiritual culture are both closely linked to endemic species, some of which are endangered today. The regional endemism that contributes to vulnerability of Hawaiian species is reflected in local oral traditions.

Welcoming Remarks: Suzanne Case, Chairperson of the Hawaii Board of Land and Natural Resources, highlighted challenges for species conservation in Hawaii and shared her vision of a path forward to a more collaborative and efficient ESA. Case emphasized the value of working with states through Section 6 of the ESA and relying on local knowledge for successful species management. Avoiding reactionary decisions that lead to administrative waste, and focusing resources on identifying and solving problems, were presented as key components to more effective conservation under the ESA.

Roundtable Highlights

Protecting Marine Areas: Balancing Conservation with Multiple

Use: Panelists discussed the use of state- and federally-designated marine protected areas to conserve marine species, as well as the associated impacts of such

designations on economic interests of local communities. They also emphasized: state-led conservation initiatives, including marine reserves; threat-based community management programs; federally protected areas; and challenges posed to fishermen by multiple layers of state, federal and international regulations.

State and Local Consultation & Coordination: Varying

Perspectives: Among other things, panelists discussed the benefits of engagement with state and local experts in listing decisions, critical habitat designation and recovery planning. They also examined collaborative conservation efforts between federal agencies, NGOs and local communities. Challenges that were discussed include a lack of coordination between the Services and species management under both the ESA and the Marine Mammal Protection Act.

WEBINAR: Empowering Private Landowner Conservation

The conversation highlighted the importance of engaging private landowners in species conservation, owing to the high ecological value of their lands and their expansive on-the-ground knowledge. Panelists considered ways to improve existing programs, such as the Partners for Fish and Wildlife Program, and how to learn from successes such as the Sage Grouse Initiative. They also discussed how to bring more funding and improved efficiency to the conservation space through the development of a standard unit of measurement, or common currency, for conservation projects. A sample of participants' comments:

"The federal vacuum on leadership in endangered species recovery is being comprehensively filled by states. Today, states have better research, better cooperation with private landowners, better outreach to corporate landowners, and better on-the-ground management."

Amos Eno, President and Executive Director,
Resources First Foundation

"By creating a common currency we will be able to unleash a great deal more innovation in the conservation space. It's going to enable us to drive larger conservation efforts through a unifying measure, it's going to allow organizations -- whether it's a conservation group,

whether it's a private landowner, whether it's someone who wants to finance these efforts, or whether it's the state interest or federal -- allow them to better measure and prioritize their efforts."

Jeff Morgheim,

Founder and Principal,
Edge Strategic Consulting, LLC

"We need to fund and staff the existing (federal landowner incentive) programs ... A big part of the problem is that we just don't

have the capacity in the agencies to deliver those programs, particularly the assurance programs for landowners. When you need to get conservation done and we're dealing with timeframes that have to do with extinction, you really don't want to be waiting for years for somebody in Fish and Wildlife Service to be able to help develop that program."

Lesli Allison, Executive Director,
Western Landowners Alliance





Dr. Sam 'Olu Gon III of the Nature Conservancy Hawaii delivered a stirring speech that provided insight into the close connection between Hawaiian culture and Hawaii's species and ecosystem.



Panelists in Honolulu discussed a variety of conservation topics, with a coastal focus.

Climate Change and the ESA: Panelists discussed various issues involving the relationship of a changing climate to species conservation. For example, they addressed the applicability of climate change to ESA listings, as well as conservation of species imperiled by climate change in the context of the ESA. Panelists also highlighted the balance between allocating resources to protect against future threats to a species and addressing threats that are currently tangible and actionable.

Invasive Species Impacts on Species Conservation Efforts:

Themes from the discussion included: interaction between state and federal invasive species laws; monitoring and management techniques for aggressive species; partnerships to address wide-spread invasive species impacts; regulatory barriers to timely management actions; and funding for invasive species management.

Listing and Delisting Considerations: Panelists provided insight from a variety of perspectives on the process of petitioning, listing and delisting species under ESA. Points of emphasis included: the role of states in listing and recovery planning; the role of litigation in the ESA process; transparency in the petition process; early and consistent stakeholder engagement; distinct population segment designations; and the avoidance of unintended consequences in the form of administrative waste or intentional taking of listed species.

Breakout Session Highlights

Breakout groups were assigned to discuss and further analyze some of the major themes identified in the previous workshops as they pertain to coastal environments. Workshop participants were identified by sector and then randomly distributed among groups to ensure a balance of perspectives in each breakout session. Groups engaged in a facilitated discussion on the following subjects.

Voluntary Proactive Conservation and Incentives: This group focused on possible incentives beyond financial and regulatory mechanisms. The group also discussed integrating adaptive management techniques in voluntary conservation efforts. In discussing adaptive management, the group highlighted scenario planning to allow flexibility for stakeholders implementing voluntary conservation efforts; risk planning, evaluation and assessment.

Listing, Recovery and Delisting Process of the ESA: Discussion

in this breakout session focused on: consistency and transparency in ESA timelines; communication between states and the Services; and formalized conversation with stakeholders prior to a listing. Additional discussion concerned new technology for monitoring efforts; definitions and processes for the use of best available science; and periodic reviews of listed species.

State and Local Coordination and Involvement: This breakout group discussed what can be done to improve coordination between federal, state, local and tribal

governments in voluntary conservation actions and operation of the ESA. The group considered: proactive outreach from federal agencies; the need for strategies, definitions and incentives for collaboration; changes to the ESA through regulatory or statutory measures; and institutionalization of existing models that are working.

Read expanded detail shared by participants in Hawaii roundtables and breakout sessions in the [Chairman's Initiative Appendix](#), which can be found online at westgov.org/initiatives/esa-initiative

WEBINAR: Multi-Species Management and Desert Landscapes

State, federal and private industry representatives discussed the challenges and opportunities posed by landscape-level management in the desert Southwest. The participants stressed the importance of patience, trust and transparency while planning multi-species conservation programs, and found that the most successful programs have mechanisms to both include and compensate affected stakeholders. A sample of participants' comments:

"There has to be a concerted effort by all of those impacted by the listing of a species to participate in a recovery program. It can't solely be a recovery plan that was forced upon a wildlife management agency, or land managers, or the users of the resource. It really must be a cooperative effort with true partnerships in which dialogue from all of the impacted user groups can engage and be heard, and solutions are actively sought by the listing agency."

Alexa Sandoval, Director,
New Mexico Department of Game and Fish

"(Multi-species management) does take time – you need to be patient. We spent 10 years planning our program,

and some of those planning meetings were brutal. There was a negotiation; everyone came in with their own bias and perspective, and we had to hammer through that to get to a point where everyone could live with the result.

You forge relationships through that conversation... and when you go out and start doing things on the ground you will find out that implementation is not the hardest part."

John Swett, Program Manager,
Lower Colorado River
Multi-Species Conservation Program

"The process for managing wildlife in a desert landscape is complicated by the ability for petitions to list en masse... It effectively chokes all of the regulatory system to the point that having adequate review and making reasonable determinations is very, very difficult."

Jim deVos, Assistant Director,
Wildlife Management,
Arizona Game and Fish Department

"Money is often not going towards recovering any species. It is going towards dealing with litigation. Litigation is driving the process, and as long as that is the case it's going to be very hard for landowners to have enough trust to make themselves vulnerable if they don't have to."

Bill McDonald, Executive Director,
Malpai Borderlands Group



Watch all of the Chairman's Initiative webinars, along with the Initiative workshops, on the [YouTube page](#) of the Western Governors' Association.

One objective of the Western Governors' Species Conservation and Endangered Species Act Initiative is to create a mechanism for states to share best practices in species management. The Case Studies on the following pages illustrate a variety of best practices in species conservation.

CASE STUDY

Hawaiian Monk Seal



Background

Hawaiian monk seals are among the world's most critically endangered mammals. Estimates suggest that there are roughly 1,200 seals remaining today. Monk seals are endemic to Hawaii and their populations are mostly confined to the remote Northwestern Hawaiian Islands (NWHI). However, there is a growing population of seals in the Main Hawaiian Islands (MHI).

In 1976, the Hawaiian monk seal was listed as "endangered" under the Endangered Species Act (ESA) and also protected under the Marine Mammal Protection Act (MMPA). Threats to monk seals in the NWHI include food limitation, shark predations, entanglement, and habitat loss; primary threats in the MHI include human-seal interactions, disease and intentional killing.

Conservation Work

Despite the continued decline of the monk seal population in the NWHI, the relatively small population in the MHI has seen significant growth in recent years. The growth of the MHI monk seal population is an encouraging sign, but increasing levels of human interaction and the introduction of new diseases create additional conservation challenges.

Initially, increasing monk seal populations in the MHI prompted a response of fear and mistrust from some stakeholders. They worried about the implications of

interacting with a federally-protected species in their day-to-day activities. Unfortunately, some who shared this viewpoint took the extreme measure of intentionally killing monk seals on the MHI.

Following years of fear and mistrust surrounding monk seal populations on the MHI, the state of Hawaii, federal agencies and local stakeholders have embraced a collaborative path forward on conservation. Some of these efforts include:

- **Research** on threats and recovery strategies for the NWHI monk seal population;
- **Community outreach and public education campaigns** to reduce monk seal-human interactions on the MHI and build awareness for conservation efforts;
- **Outreach** to commercial and recreational fishermen, and the native Hawaiian community;
- **Captive care facilities** to support monk seal rehabilitation and veterinary care;
- **Development** of the Marine Mammal Response Network to respond to strandings and haul-outs of monk seals.

Result

Despite conservation efforts, monk seal populations in NWHI have been in steady decline (roughly 4% per year) since the 1950s. This long-term decline is countered by the continued growth of the MHI populations.

Greater Sage-Grouse

Background

The greater sage-grouse is found in 11 western states (California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming) and two Canadian provinces.

Greater sage-grouse inhabit large landscapes in the sagebrush-steppe or sagebrush shrublands ecosystem. The decline in the bird's population from historic levels is tied to a variety of factors, including human development, drought, wildfire, invasive species and predation.

In 2010, the United States Fish and Wildlife Service (FWS) determined that the greater sage-grouse was “warranted but precluded” for listing under the Endangered Species Act (ESA). Under the terms of a 2011 settlement, FWS agreed to reach a “warranted” or “not warranted” decision on listing by September 30, 2015.

Conservation Work

States, federal agencies, private landowners, industry and conservation groups undertook an unprecedented voluntary conservation effort across the bird's 257,000-square-mile range. Efforts such as the Natural Resources Conservation Service's (NRCS) Sage Grouse Initiative (SGI) and SGI 2.0 helped ranchers to proactively conserve and improve the bird's habitat. Additionally, the Wyoming Sage-Grouse Core Management Areas plan paved the way for extensive state-driven collaborative conservation.

A sample of conservation investments highlighted in the Western Governors' 2014 **Sage-Grouse Inventory** includes:

- **450,000 acres** of private land conserved as easements from 2010 to 2015;
- **A \$425 million investment** by NRCS to conserve more than 4 million acres;



- **400,000 acres** of greater sage-grouse habitat reclaimed by private landowners through conifer removal;
- **Millions of dollars** in state investments directed towards funding conservation efforts.

Result

On September 22, 2015, the FWS announced that listing the greater sage-grouse was not warranted under the ESA. Despite the “not warranted” decision, work continues to conserve the sage-grouse, though challenges exist for states in the development and implementation of land use plans with federal agencies. In December 2015 Governors requested that the Department of the Interior (DOI) establish a preference for state-based mitigation programs that meet or exceed core DOI mitigation requirements.

Some have cited this multi-faceted conservation effort as the “future of conservation,” where individual species are protected through collaborative landscape-level efforts that transcend political boundaries.

Gunnison Sage-Grouse

Background

The Gunnison sage-grouse is slightly smaller than the Greater sage-grouse and is only found in southwestern Colorado and southeastern Utah. It was recognized as a distinct species from the greater sage grouse in 2000. A large, core population of Gunnison sage-grouse lives in the Gunnison Basin, along with six smaller satellite populations.

Gunnison sage-grouse, which need large expanses of sagebrush ecosystem to survive, currently occupy about 940,000 acres of land. Habitat loss and fragmentation are regarded as the greatest risks to the species, which has lost 90% of its historic range. The quality of remaining habitat is also important to Gunnison sage-grouse survival.

The United States Fish and Wildlife Service (FWS) initially proposed listing the species as endangered in January 2013. Through a settlement, FWS agreed to reach a “warranted” or “not warranted” decision by November 2013.

Conservation Work

The local community has been actively engaged in conservation efforts since before the bird was even recognized as a distinct species. In 1997, the community published a Gunnison Basin Sage-Grouse Conservation Plan that included specific conservation actions to recover habitat and increase population numbers. Gunnison County also created the Gunnison Basin Sage-Grouse Strategic Committee with representation from a variety of local stakeholder groups. Conservation actions include:

- **Road closures** during mating season;
- **Research**;
- **Development** of Candidate Conservation Agreements with Assurances for private landowners and Candidate Conservation Agreements for public lands;
- **Regulations** to reduce impacts to sage grouse.

In 2005, a range-wide conservation plan was published for the Gunnison sage-grouse with contributions from Colorado Parks and Wildlife, Bureau of Land Management, National Park Service, Natural Resources



U.S. Fish and Wildlife Service

Conservation Service, Forest Service, FWS, and the Utah Division of Wildlife Resources.

Through these efforts, 400,000 acres of public land and 94,000 acres of private land entered voluntary agreements to restore land or modify grazing practices for the species’ benefit.

Result

The Gunnison sage-grouse was listed as threatened in November 2013. With the listing, 1.4 million acres of land were designated as critical habitat.

Through local voluntary conservation efforts, the core population in Gunnison Basin is currently estimated to be at about 4,000 grouse, a significant rebound from a low of about 2,500 following a drought in 2005.

Despite the robust voluntary efforts and local collaboration that led to conservation success with the main Gunnison Basin population, the smaller satellite populations continue to decline. While FWS praised the work of Gunnison County, it recognized the ongoing threats to the other populations in the listing decision. FWS has since been sued over the ruling by state, county and environmental groups. Though local stakeholders who undertook significant conservation actions are frustrated by the uncertainty that the listing and subsequent lawsuits have brought, voluntary conservation of the grouse continues to be embraced by the local community.

Upper Salmon Basin Watershed Program



Salmon River in Idaho.

Background

Idaho's Upper Salmon Basin includes five large watersheds: the Lemhi, Pahsimeroi, East Fork, North Fork and the headwaters of the Salmon River. Historically, the Upper Salmon Basin was a highly productive area for anadromous (or ocean-going) fish, including Snake River spring/summer Chinook salmon, Snake River steelhead, and fluvial Columbia River bull trout, all of which are listed as threatened under the Endangered Species Act (ESA). However, impassable diversion structures, entrainment in ditches and dewatering due to inefficient irrigation practices have in part, prevented these fish from accessing key tributaries within the region.

The Upper Salmon Basin Watershed Program (USBWP) was established in 1992 to address issues impacting anadromous and resident fish at a watershed scale. For more than two decades, this collaborative program has worked to design and implement projects that improve habitat conditions for fish while respecting and balancing the needs of local ranchers to ensure traditional land use activities remain viable on the landscape.

Staff from the Idaho Governor's Office of Species Conservation assist in the planning and permitting process and provide monitoring and oversight of project implementation. Funding for this work is largely provided by the Bonneville Power Administration, in addition to grants and in-kind contributions from federal agencies and others. Key organizations involved in this effort include the U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Forest Service, National

Marine Fisheries Service, U.S. Bureau of Reclamation, USDA Natural Resources Conservation Service, Idaho Department of Water Resources, Idaho Department of Fish and Game, Custer and Lemhi County Soil and Water Conservation Districts, Trout Unlimited, Lemhi Regional Land Trust, The Nature Conservancy, and the Shoshone-Bannock Tribe.

Conservation Work

The USBWP coordinates the design and implementation of projects that benefit listed fish by improving fish passage, increasing water quantity and instream flow, restoring riparian habitat, and addressing erosion and water temperature. These conservation actions are implemented through partnership with private landowners in a way that does not negatively impact agricultural operations. The USBWP includes both a "Tech Team" and an "Advisory Committee" which meet regularly to evaluate proposed projects, develop watershed plans, and rank projects based on biological merit prior to funding and implementation. The Watershed Advisory Committee also provides an avenue to solicit public input and provide guidance as to the direction of the USBWP's goals and objectives.

Results

In addition to improving conditions for listed fish species within the Upper Salmon, the USBWP has improved communication between diverse stakeholder groups and state and federal agencies, serving as a model for testing ideas, sharing information, and —most of all— for cooperation and partnership built on trust.

WGA Thanks Our ...

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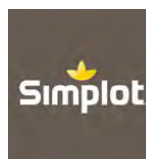
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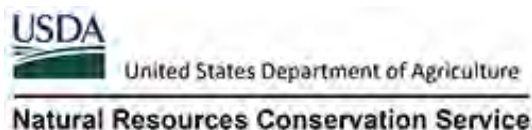
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Western States Land Commissioners Association

Idaho Governor's Office of Species Conservation

State of Idaho - Department of Fish & Game

Initiative Funding Also Provided By



Western Governors' Species Conservation and Endangered Species Act Initiative

ON THE WEB



WESTERN
GOVERNORS'
ASSOCIATION

A central objective of the Chairman's Initiative is to enable participants to engage in meaningful discussions regarding species conservation and the Endangered Species Act. To ensure the conversation reaches the widest possible audience, WGA launched an online resource that includes videos of all Workshops, our Webinar series, species conservation resources, and the case study series, *Species Spotlight*. We've also created the [Chairman's Initiative Appendix](#), a document that delivers expanded detail on the conversations at each workshop, as well as responses to questionnaires shared with participants.

Join the conversation at: westgov.org/initiatives/esa-initiative

WORKSHOPS

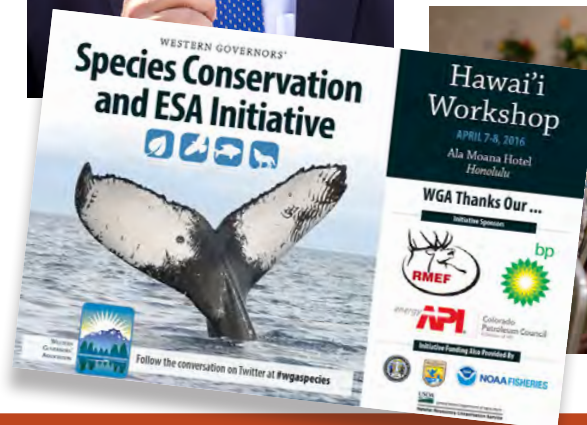
More than 500 attendees took part in the four Chairman's Initiative regional Workshops.

The Workshops were "livestreamed" on the web and subsequently posted to YouTube.

Workshops were hosted by **Gov. Matthew H. Mead** in Wyoming, **Gov. C.L. "Butch" Otter** in Idaho, **Gov. John Hickenlooper** in Colorado, and **Gov. David Ige** in Hawaii.

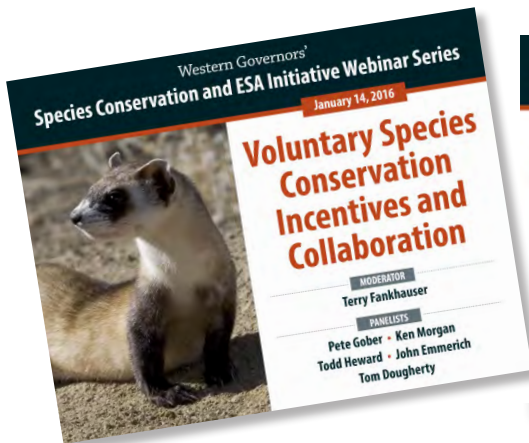
On the web

Watch videos of all Workshop sessions and find written Workshop summaries and photos.



CHAIRMAN'S INITIATIVE APPENDIX

The four regional Workshops generated an enormous amount of conversation about species and the Endangered Species Act. The Initiative's Webinar Series also contributed a significant amount of information, as did responses to questionnaires from WGA. To further inform the work of the Initiative, WGA created the Chairman's Initiative Appendix, an online document that captures that additional species conversation. Find it [Here](#).



WEBINARS

The Chairman's Initiative Webinar Series featured the leading thinkers on such topics as voluntary species conservation incentives, invasive species, the role of litigation in the ESA, and how to empower private landowner conservation.

 [On the web](#)

Watch the webinars

SPECIES SPOTLIGHT

Case studies are essential to a deeper understanding of the issues surrounding the ESA. The *Species Spotlight* case study series takes a close look at a variety of species conservation efforts in recent decades. Specifically, learn about work to preserve the Arctic Grayling, Oregon chub, American Peregrine Falcon, El Segundo Blue Butterfly and Columbian white-tailed deer.



 [On the web](#)

Read all five Species Spotlights

Find other case studies, species-related resources

Chairman's Initiative Report

PANELISTS

Cody, Wyoming

Nov. 12-13, 2015

Keynote Speakers

- **Honorable Matthew H. Mead**, Governor of Wyoming, Chairman of the Western Governors' Association
- **James D. Ogsbury**, Executive Director, Western Governors' Association
- **Gary Frazer**, Assistant Director, Ecological Services, United States Fish and Wildlife Service

Panelists

- **Nick Owens**, Staff Regulatory Analyst, Anadarko Petroleum
- **Philip Dinsmoor**, Director, Environmental Services, Powder River Basin, Peabody Energy
- **Chris Reichard**, Environmental Policy Analyst, Tri-State Generation and Transmission Association, Inc.
- **Sherry Liguori**, Avian Program Manager, PacifiCorp
- **Lee Livingston**, Outfitter/Commissioner, Livingston Outfitting/Park County, Wyoming
- **Ed Arnett**, Senior Scientist, Theodore Roosevelt Conservation Partnership
- **Sara Brodnax**, Manager, Habitat Markets, Environmental Defense Fund
- **Jim Neiman**, President/CEO, Neiman Enterprises
- **Pat O'Toole**, President, Family Farm Alliance
- **Honorable Albert Sommers**, Owner, Sommers Ranch/Wyoming State Representative
- **Don Ament**, Governance Committee Member, Platte River Recovery Implementation Program
- **Joel Bousman**, County Commissioner, Sublette County Commission
- **John Harja**, Senior Policy Analyst, Utah's Public Lands Policy Coordination Office
- **Jacque Buchanan**, Deputy Regional Forester, United States Forest Service, Rocky Mountain Region
- **Jeff Hagener**, Director, Montana Fish, Wildlife & Parks
- **Dustin Miller**, Administrator, Idaho Governor's Office of Species Conservation
- **Scott Talbott**, Director, Wyoming Game and Fish Department
- **Bob Budd**, Executive Director, Wyoming Wildlife and Natural Resource Trust
- **Tim Griffiths**, Coordinator, West Working Lands for Wildlife, USDA/NRCS
- **Terry Fankhauser**, Executive Vice President, Colorado Cattlemen's Association

Boise, Idaho

Jan. 19, 2016

Keynote Speakers

- **Honorable C.L. "Butch" Otter**, Governor of Idaho
- **James D. Ogsbury**, Executive Director, Western Governors' Association
- **Gary Frazer**, Assistant Director, Ecological Services, United States Fish and Wildlife Service

Panelists

- **Dr. John Freemuth**, Professor and Senior Fellow, Andrus Center for Public Policy, Boise State University
- **Brenda Richards**, Treasurer, Owyhee County
- **Bill Van Pelt**, WAFWA Grassland Coordinator, Arizona Game and Fish Department
- **Myles Culhane**, Managing Counsel, Occidental Oil & Gas Corporation
- **Bob Brammer**, Chief Operations Officer, Idaho Department of Lands
- **Virgil Moore**, Director, Idaho Fish and Game
- **John Tanaka**, Associate Director, University of Wyoming Agricultural Experiment Station
- **Richard Valdez**, Senior Science Advisor, SWCA
- **Michael Bogert**, Managing Shareholder, Parsons Behle & Latimer
- **Bruce Farling**, Director, Trout Unlimited Montana
- **Dan Dinning**, Commissioner, Boundary County
- **Sam Eaton**, Policy Advisor, Idaho Governor's Office of Species Conservation
- **Ann Forest Burns**, Vice President, American Forest Resource Council
- **Trent Clark**, Director of Government Affairs, Monsanto
- **Will Whelan**, Director of Government Relations, The Nature Conservancy Idaho
- **Tom Perry**, Counsel, Marten Law
- **Brian Kelly**, Consultant, Brian T. Kelly, LLC
- **Jim Magagna**, Director, Wyoming Stock Growers Association
- **David Solem**, Manager, South Columbia Basin Irrigation District
- **Nada Culver**, Senior Director, Agency Policy & Planning, The Wilderness Society
- **Kyle Tackett**, District Conservationist, NRCS
- **Brett Dumas**, Environmental Supervisor, Idaho Power Co.
- **Wyatt Prescott**, Executive Vice President, Idaho Cattle Association

Denver, Colorado

March 9-10, 2016

Keynote Speakers

- **Honorable John Hickenlooper**, Governor of Colorado
- **Honorable Matthew H. Mead**, Governor of Wyoming, Chairman of the Western Governors' Association

Panelists

- **Honorable Bob Rankin**, Representative, Colorado House of Representatives
- **Tom Jankovsky**, Commissioner, Garfield County
- **Luke Schafer**, West Slope Advocacy Director, Conservation Colorado
- **John Alves**, Senior Aquatic Biologist, Colorado Parks and Wildlife
- **Bob Broscheid**, Director, Colorado Parks and Wildlife
- **Gary Frazer**, Assistant Director for Endangered Species, United States Fish and Wildlife Service
- **Jonathan Houck**, Commissioner, Gunnison County
- **Carey Farmer**, Gas Plants and Commercial Manager, ConocoPhillips
- **Ethan Lane**, Executive Director, Public Lands Council/ National Cattlemen's Beef Association
- **John Gale**, Conservation Director, Backcountry Hunters & Anglers
- **Deborah Freeman**, Attorney, Trout, Raley, Montano, Witwer & Freeman
- **David Brown**, GPA Director, Lower 48-West, BP America
- **Eric Holst**, Associate Vice President, Working Lands, Environmental Defense Fund
- **Terry Fankhauser**, Executive Vice President, Colorado Cattlemen's Association
- **Julie Grogan-Stewart**, Deputy Chief of Staff, USDA-NRCS
- **Chris West**, Director, Rocky Mountain Regional Office, National Fish and Wildlife Foundation
- **Noreen Walsh**, Regional Director, Mountain-Prairie Region, United States Fish and Wildlife Service
- **Myles Culhane**, Managing Counsel, Occidental Oil and Gas Corporation
- **Jay Tutchton**, Senior Staff Attorney, Defenders of Wildlife
- **Robert Fischman**, Professor, Indiana University Maurer School of Law
- **Norman James**, Attorney, Fennemore Craig

Dr. John Freemuth, Professor and Senior Fellow, Andrus Center for Public Policy, Boise State University

Honolulu, Hawai'i

April 7-8, 2016

Keynote Speakers

- **Honorable David Ige**, Governor of Hawai'i
- **James D. Ogsbury**, Executive Director, Western Governors' Association
- **Sam 'Olu Gon III**, Senior Scientist & Cultural Advisor, The Nature Conservancy Hawai'i

Panelists

- **John Laird**, Secretary, California Natural Resources Agency
- **Suzanne Case**, Chair, Board of Land and Natural Resources, State of Hawai'i
- **Dr. Randall Kosaki**, Deputy Superintendent, Papahānaumokuākea Marine National Monument
- **Sean Martin**, President, Hawai'i Longline Association
- **Bruce Dale**, Director, Alaska Department of Fish and Game
- **Josh Kindred**, Environmental Counsel, Alaska Oil and Gas Association
- **Keith Unger**, General Manager, McCandless Ranch
- **Paul Dalzell**, Senior Scientist, Western Pacific Fishery Management Council
- **Eric Gardner**, Deputy Assistant Director, Washington Department of Fish and Wildlife
- **Margaret Sporck-Koehler**, State Botanist, State of Hawai'i
- **Neil Reimer**, Administrator, Plant Industry Division, Hawai'i Department of Agriculture
- **Trae Menard**, Director, Forest Conservation, The Nature Conservancy Hawai'i
- **Carlos Suarez**, California State Conservationist, USDA-NRCS
- **Dale Sandlin**, Managing Director, Hawai'i Cattlemen's Council
- **Earl Campbell**, Chief, Invasive Species Program, USFWS-PIFWO
- **Ann Garrett**, Assistant Regional Administrator, Protected Resources Division, NOAA Fisheries' Pacific Islands Regional Office
- **Loyal Mehrhoff**, Endangered Species Recovery Director, Center for Biological Diversity
- **Glenn Reed**, President, Pacific Seafood Processors Association
- **Elia Herman**, Manager, Marine Wildlife Program, Hawai'i Department of Land and Natural Resources

Chairman's Initiative Report

RESOURCES

Following is a list of organizations, programs, initiatives and tools that were presented throughout the ongoing conversation of the Western Governors Species Conservation and Endangered Species Act Initiative.

Candidate Conservation Agreement (CCA)

A voluntary conservation agreement between the U.S. Fish and Wildlife Service and one or more public or private parties. Agreements identify threats to candidate species, develop plans to mitigate threats, and establish monitoring of species' populations.

Candidate Conservation Agreement with Assurances (CCAA)

CCAA's are voluntary conservation agreements that provide non-federal landowners with incentives to engage in conservation measures, like CCA's, but with assurances that future conservation obligations will be limited.

Crucial Habitat Assessment Tool (CHAT)

The Western Association of Fish and Wildlife Agencies (WAFWA) Crucial Habitat Assessment Tool was developed to depict crucial wildlife habitat spanning 16 western states. The tool is non-regulatory and is designed to reduce conflicts and surprises to developers while ensuring wildlife values are better incorporated into land use planning.

Colorado Natural Areas Program (CNAP)

CNAP works with private landowners and volunteers to conserve natural places in Colorado. Natural areas are designated on public and private land through land management agreements.

Conservation Easement

Conservation easements are a legal construct enabling private landowners to forego their right to develop their property in exchange for direct payments and tax benefits.

Coordinating Group for Alien Pest Species (CGAPS)

CGAPS is a partnership of agencies and non-profit organizations working to address invasive species in Hawaii. CGAPS works to address gaps in prevention, detection and control of invasive species by assisting

with prevention coordination, planning and management.

Environmental Quality Incentives Program (EQIP)

EQIP is a voluntary program providing financial and technical assistance to agricultural producers implementing conservation practices on agricultural land and non-industrial private forestland.

Great Outdoors Colorado

GOCO uses a portion of invested proceeds from the Colorado Lottery to preserve and enhance the state's trails, parks, wildlife, rivers and open spaces. Additionally, grants from the program have assisted Colorado Parks and Wildlife and the Colorado Youth Corps Association.

HabiMap™ Arizona

This tool is a resource for the public to access Arizona's State Wildlife Action Plan and best available wildlife and habitat data. The available data is intended to be used as an early planning tool for landscape-level analysis.

Habitat Conservation Plan (HCP)

An HCP is a planning document required for application of an incidental take permit under Section 10(a)(1)(B) of the ESA. HCP's can be created for listed or non-listed species, including candidate species.

Habitat Exchange

Habitat exchanges facilitate the exchange of habitat credits between landowners (who create, maintain, or improve habitat on their property) and industry seeking to mitigate development impacts.

Intermountain West Joint Venture (IWJV)

IWJV is a collaborative, regional partnership of agencies, NGO's, corporations, tribe and individuals working toward bird conservation goals. Projects include biological planning, project implementation, monitoring, outreach, fundraising, and more.

Owyhee Initiative

The Owyhee Initiative is a landscape-scale program for preserving a functioning, un-fragmented landscape supporting human, plant and animal life while preserving livestock grazing and cultural resources. The Initiative grew out of a working group comprised of landowners, ranchers, environmental organizations, and recreation groups working in Owyhee County, Idaho.

Plant Extinction Prevention Program (PEPP) of Hawaii

PEPP works to prevent extinction of rare plant species in Hawaii through threat management activities, monitoring and surveying, propagating, and population reintroduction and augmentation.

Plant Industry Division – State of Hawaii

The State of Hawaii Plant Industry Division works to prevent the introduction and spread of invasive animals, insects, weeds, plant diseases and other pests. The Division carries out customs and plant nursery inspections, and controls and eradicates pests through biological, chemical and mechanical means.

Platte River Recovery Implementation Program

The Platte River Recovery Implementation Program is a joint effort between Wyoming, Colorado and Nebraska to “utilize federal and state provided land, water and scientific monitoring and research to secure defined benefits for...target species and their habitats in the central Platte River.”

Readiness and Environmental Protection Integration Program (REPI)

REPI works to address land-use conflicts near military installations. The program partners with conservation groups, state and local governments, and others to establish landscape-scale partnerships that link military readiness, conservation, and communities.

Regional Conservation Partnership Program (RCPP)

The RCPP supports partnerships between the Natural Resources Conservation Service (NRCS) and its partners. The program provides conservation assistance to agricultural producers and landowners.

Safe Harbor Agreement (SHA)

SHA's are voluntary agreements between the U.S. Fish and Wildlife Service and/or National Oceanic and Atmospheric Administration that leverage actions for species conservation on non-federal lands to acquire

formal assurances from the Service(s) that additional management activities will not be required without consent from the landowner.

South Platte Water Related Activities Program (SPWRAP)

SPWRAP is a non-profit organization representing Colorado water users and assisting in the implementation of the Platte River Recovery Implementation Program. SPWRAP works to recover threatened and endangered species and negotiate with federal agencies and other stakeholders.

The Pioneer's Alliance (TPA)

TPA is a coalition of ranchers, residents, conservationists, scientists, business people, and elected and agency officials formed to protect the Pioneer Mountains and Craters of the Moon region of south-central Idaho. TPA secures and distributes funding for a variety of projects.

Utah Partners for Conservation and Development (PCD)

This partnership of federal, state and local agencies and organizations works to leverage resources and increase effectiveness of conservation solutions. Utah PCD focuses on healthy landscapes and considers its core values to be biological diversity, water quality and quantity, sustainable agriculture, and outdoor recreation.

Utah Watershed Restoration Initiative (WRI)

Utah's WRI is a partnership-based initiative for restoring high priority watersheds. Regional teams led by elected leaders assist in project planning, prioritization and implementation. Funding for WRI comes from state and federal agencies, non-governmental organizations and private landowners.

Western Native Trout Initiative (WNTI)

The WNTI supports projects that improve the abundance of western native trout by gathering project opportunities, funding and partners. Projects are funded through a variety of partners.

Wyoming Wildlife and Natural Resource Trust (WWNRT)

The WWNRT is an independent state agency funded by interest on a permanent account, donations and legislative appropriation. The agency works to enhance and conserve wildlife habitat and natural resource values throughout Wyoming by allocating funds to government agencies and non-profit organizations.

Notes

A series of horizontal dotted lines for taking notes.



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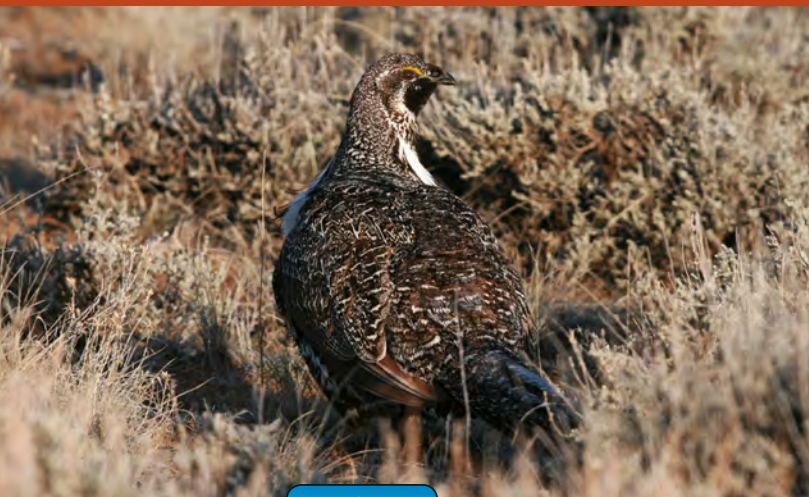
For More Information

westgov.org/initiatives/esa-initiative



Western Governors' Species Conservation and Endangered Species Act Initiative

The Chairman's Initiative of Wyoming Governor Matthew H. Mead



EXECUTIVE SUMMARY

As Chairman of the Western Governors' Association, Wyoming **Governor Matt Mead** launched the **Western Governors' Species Conservation and Endangered Species Act Initiative** in June of 2015. The Chairman's Initiative has since: created a mechanism for states and stakeholders to share best practices in species management; promoted the role of states in species conservation; and explored options for improving the efficacy of the **Endangered Species Act**.

Experts, observers and wildlife managers acknowledge that, in the 43 years since the 1973 passage of the Endangered Species Act (ESA, the Act), changes to the Act are warranted. Regardless, proposed amendments to the Act are frequently opposed on the basis that any change represents the first step in dismantling the ESA. The WGA Chairman's Initiative has taken a significant step toward changing that narrative and will continue to advance that purpose in the years to come.

While the Initiative has examined the ESA to determine what is working and what is not, the effort goes well beyond consideration of the Act alone. One of the purposes of the Initiative is to avoid the need to list a species in the first place, through early identification of sensitive species and establishment of institutional frameworks that encourage collaborative voluntary conservation.

The Initiative has generated input from a wide spectrum of stakeholders for Western Governors to consider. This was accomplished in part through workshops hosted by **Gov. Matt Mead** in Wyoming, as well as **Gov. C.L. "Butch" Otter** in Idaho and **Gov. David Ige** in Hawaii. **Gov. John Hickenlooper** was joined at his Colorado workshop by **Gov. Mead**. In all, more than 500 attendees participated in the workshops.



Governor Matt Mead spoke at Chairman's Initiative workshops in Wyoming and Colorado.

To expand the Initiative's reach, workshops were "livestreamed" on the web and posted to YouTube for later viewing. WGA also hosted a series of webinars highlighting key issues in species conservation and the ESA. The Chairman's Initiative website includes conservation resources and best practices, as well as the case study series, *Species Spotlight*. WGA will continue to update the website with the latest news on species conservation and the ESA.



From top, Western Governors C.L. "Butch" Otter (Idaho), David Ige (Hawaii), and John Hickenlooper (Colorado) hosted Chairman's Initiative workshops in their home states.

Join the Conversation

WGA launched a website that hosts content for the **Chairman's Initiative**. Visit the website to watch videos of all workshop sessions, as well as webinars, conservation resources and the case study series *Species Spotlight*. WGA also has created the **Chairman's Initiative Appendix**, a document with expanded detail on conversations at each workshop. **Join the conversation at:**



westgov.org/initiatives/esa-initiative

INITIATIVE THEMES

WGA has synthesized a vast array of information on improving species conservation efforts and ESA efficacy through the work of the Initiative. Generally, this information can be organized by the following themes:

Incentivizing Proactive Voluntary Conservation:

A prominent theme is the use of voluntary conservation as a means of pre-empting the need to list a species in the first place and effectively recovering imperiled species.

The Role of State and Local Governments in Species Conservation and ESA Implementation:

Workshops featured strong engagement of local, state and federal wildlife experts who discussed how state resources – including data, science, analyses and manpower – can be better leveraged for the benefit of species.

Landscape Level Conservation and Ecosystem Management:

The Initiative examined the merits and applicability of landscape-level conservation strategies, in prelisting species conservation efforts and implementation of the ESA. Initiative participants have emphasized the feasibility of these efforts and how to fund and implement them.

Investment in Science and Measurable Outcomes:

The use of science is fundamental to nearly all of the Initiative themes. Workshops and webinars, as well as responses to WGA questionnaires, highlighted concepts such as uncertainty and risk, peer review, best available science, and the role of stakeholders in ESA scientific decisions.

Listing, Recovery and Delisting Process of the ESA:

Panelists discussed each step in the ESA process, from petitioning to delisting.

Law and Policy Recommendations:

Examination of discrete elements of the statutory and regulatory aspects of the ESA has been an essential component of the Initiative. The role of litigation in the ESA has also been an area of substantial focus.

The work of the **Western Governors' Species Conservation and Endangered Species Act Initiative** has just begun. WGA will continue the work launched by Gov. Mead in the months and years to come with a focus on improving all aspects of species conservation for the mutual benefit of wildlife and people of the West.

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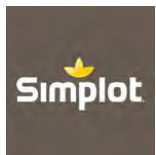
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