APPENDIX

Western Governors’ Species Conservation and Endangered Species Act Initiative

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

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WESTERN GOVERNORS’ ASSOCIATION
westgov.org/initiatives/esa-initiative
Species Conservation and ESA Initiative Appendix

The Western Governors’ Associations Species Conservation and ESA Initiative conducted four regional workshops. Those conferences – combined with a webinar series and questionnaire instrument -- generated an enormous amount of information and diverse perspectives on how species conservation efforts in the West can be improved.

WGA has compiled this appendix to capture a cross-section of paraphrased viewpoints expressed by participants during roundtable panel discussions and breakout sessions at workshops.

Questionnaire responses were also recorded and used to inform the development of workshop agendas and breakout session discussions. Elements of individual questionnaire responses are included in the Chairman’s Initiative Appendix and will be further utilized to inform the production of the Governors’ future efforts.

The Chairman’s Initiative Appendix is organized into sections designed to capture viewpoints in both the roundtable panel discussions and breakout portions of each workshop. The Appendix is organized by six overarching themes that have been developed during the course of the Initiative. These themes (bold) are then further dissected into specific sub-themes (italics).

The thematic structure of the Chairman’s Initiative Appendix follows.

ROUND TABLE

Theme: Incentivizing Proactive Voluntary Conservation
- Assurances
- Conflict and Litigation
- Monitoring and Early Action
- Incentives vs. Regulatory Hammer
- Transparency

Theme: Role of State and Local Governments in Species Conservation and ESA Implementation
- Federal-State-Local Consultation and Collaboration
- State & Local Science, Data and Expertise

Theme: Landscape-Level Conservation and Ecosystem Management
- Ecosystems Management
- Adaptive Management Tools
- Stakeholders’ Roles
- Conflict and Litigation

Theme: Investment in Science and Measurable Outcomes
- Best Available Science
- Uncertainty and Risk
- Stakeholders’ Role
- State & Local Science, Data and Expertise

Theme: Listing, Recovery, and Delisting Process of ESA
- Listing
- Recovery and Delisting
- Critical Habitat
- Funding and Agency Capacity
- Timelines

Theme: Law and Policy Recommendations
- Regulatory Efficacy
- Conflict and Litigation
Workshop Roundtable Appendix
Cody, Wyoming

This Appendix presents a sample of paraphrased viewpoints expressed during roundtable panel discussions and breakout sessions at the Cody, Wyoming, workshop of the Western Governors’ Species Conservation and Endangered Species Act Initiative held on November 12-13, 2015. The Appendix is organized by the six overarching initiative themes that were developed during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector represented by the stakeholder whose viewpoint is presented.

**Theme: Incentivizing Proactive Voluntary Conservation**

**Assurances**

- **[Industry]** Policies facilitating voluntary conservation initiatives such as Candidate Conservation Agreements with Assurances (CCAAs) and Habitat Conservation Plans (HCPs) need to be clarified to recognize and allow for further extractive industry involvement. These policies should also recognize and support conservation initiatives occurring within mixed ownership landscapes which are especially prevalent here in the West.
- **[Conservation]** Proactive engagement amongst multiple groups of stakeholders is necessary to develop conservation measures precluding the need to list species in the first place. Likewise, the Services need to provide feedback and assurances that the conservation plans developed will be adequate avoid a listing.
- **[State]** Montana recently coordinated with numerous conservation groups to put together a CCAA that resulted in substantially more water left in streams in the Big Hole Valley. It was an exemplary voluntary effort that brought in multiple stakeholder groups. It had to be done in a way that respected long held water rights but also provided conservation benefits for the imperiled species.

**Incentives vs. Regulatory Hammer**

- **[Agriculture]** One thing that ranchers don’t often do is look at the value of all of the resources on our land -- the human capital, the livestock capital, the hay capital and the wildlife capital. There need to be more incentive-based programs. If we do not preserve the working landscapes of the West, we will not preserve the wildlife of the West -- it goes hand in hand. We need to find new incentive programs and we need to find a way to trust each other.
- **[Federal]** When the agricultural community and private land owners are empowered, a potential is released that has rarely been seen in the country’s conservation history. You can take something that really started out as a threat and turn it into an amazing opportunity where world-class wildlife conservation is achieved through sustainable agriculture.
- **[Agriculture]** Innovation is an act of leadership, and it’s time for leadership. It is time to have some degree of reckless abandon to implement innovative programs like land exchanges. If we don’t seize the opportunity sooner than later, landowners may become impatient with the pace and resort to more responsive tools like courtrooms and things along those lines. We don’t want that; it’s not good for the species and it’s not good for the work that any of us do. Innovation needs to come at a consistent pace and we need to move forward as soon as possible.
- **[Conservation]** The best solution to improving the Act is to avoid having to use it in the first place. Proactive conservation strategies help to get ahead of the curve earlier in the process instead of waiting for the looming regulatory hammer to drive conservation. Conservation should be viewed as an investment, instead of an impediment.
- **[Conservation]** We need to better define what investment in conservation looks like with specific incentives to engage stakeholders early on.
- **[Conservation]** There need to be solutions that make economic sense and provide market opportunities and landowner incentives through habitat exchanges. Habitat exchanges are driven by interest at the local level. Landowners are looking for financial assistance and recognition in their efforts to conserve species. Engaging landowners provides the best chance to conserve species - listed or not.
- **[State]** The current regulatory framework under the Endangered Species Act (ESA) does not leave enough time to get easements and other voluntary conservation measures in place before a listing decision. There needs to be a more transparent system for putting regulatory mechanisms into place.
- **[Federal]** Empowering agriculture and private landowners has unleashed conservation potential and turned the threat of listing into the opportunity to conserve species.
• [Agriculture] Incentives don’t have to be financial. A combination of tools is important. Permanent tools can be successful but many prefer temporal and non-permanent tools which can be important biologically as well.
• [State] Many voluntary incentive programs are becoming blind to how much money a landowner has. It is now only about how good the project is. Many neighbors are beginning to aggregate resources. Right now the only people that aren’t eligible are those who do have significant resources because they’re boxed out by federal regulations.
• [Agriculture] Programs like the Sage-Grouse Initiative (SGI) or habitat exchanges are all about providing a more flexible business model for farmers and ranchers that ensures their ability to raise livestock or crops and turns a liability into an opportunity.
• [Agriculture] Private landowners are the keys to success in conservation. There has been an increasing rate of agricultural land being converted to other uses over last 30 years. There is a survival instinct kicking in for producers now. Active conservation needs to be outcome-based, not practice-based. Assurances are also important to landowners. Oregon, Montana, Nevada, Wyoming and Colorado have or are developing habitat exchanges. This represents the next step in the land trust movement.
• [Agriculture] Additionality in conservation is a fundamental premise. Conservation is not about not doing, but about doing things. We need to bring in industry early to design compensatory mitigation programs that will work for them.
• [Federal] The role of industry comes down to having the community build the desired future and a conservation plan. Give them the opportunity to proactively invest.

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

Process Guidelines
• [State] There are a number of frustrations with the ESA, one being the attitude that everything has to be identical across state lines. That is a very nice attitude, but it fails to recognize the political realities around getting things done. To get things done in Wyoming is different than Idaho, it’s different than Utah, it’s different than Nevada, and it is different than any of the states on the West Coast.
• [Industry] From our experience with the ESA, a greater state role in listing decisions is desirable. It would also be beneficial to delegate recovery planning and monitoring to states, and allow the state(s) adequate time to implement conservation measures in order to preclude a listing decision.
• [Sportsmen] There’s a new rule on prelisting conservation to improve coordination. States are cooperating with federal agencies. That can be helped by improved and genuine communication. Don’t just check the box. Have the detailed discussions. Be sincere about that.
• [Conservation] When the opportunities and need are clear, states are able to step up. Good science allows the opportunity and certainty that if certain actions are taken things can be turned around.
• [State] Success for ranchers in Wyoming recognizes the need for a depredation compensation program. We’ve stayed on the landscape at the expense of the state of Wyoming, not the federal government. We’ve created better lines of communication around these depredation stories.
• [State] FWS Section 6 funding is very minimal. Aside from the funding, cooperation with states is a key component of ESA. Section 6 needs to be examined as an area where states could really jump in and take a leadership role.
• [State] States have the ability to develop and maintain partnerships and build the trust with local communities, NGOs and industry. States can also build trust and ensure that they are doing what they need to do from a recovery standpoint.
• [State] If states and FWS can stand together in the face of a legal challenge to species protections, it will have more weight behind the defense as opposed to the FWS standing along without state buy-in.

State & Local Science, Data and Expertise
• [State] State agency biologists and technical personnel have the background and knowledge of what species habitat requirements are; they need to really make those educated important decisions on how to move forward to conserve, recover and delist species, while considering the economic implications of what those conservation actions really mean on the ground.
• [Sportsmen] Western states have a deep pool of extremely talented wildlife managers. These people are close to the ground here. They understand the terrain, animals and people. Most importantly, they have a broad view of wildlife management.
• [Local] Wyoming’s Game and Fish Department (WGFD) has qualified people who can be trusted to manage wildlife in the state. County governments can also play a role in improving outcomes of the ESA. It’s important to
understand the U.S. Fish and Wildlife Service’s (FWS) obligation to receive input from counties affected by regulations resulting from an ESA listing. FWS must account for conservation efforts of state and state political subdivisions, and is required to give notice of new regulations at the county level. Too often, the federal government either ignores or simply checks the box regarding county involvement. In Wyoming, the most successful management plans are those developed in coordination with local governments. Counties have more specific knowledge and can often serve as a bridge between state and federal agencies and individuals.

Stakeholders’ Role

- [Agriculture] There is nothing more devastating to the production of food than an ESA listing decision that does not include farmers and ranchers in the process. There has to be a way to broaden the focus of species conservation, and that is where institutionalizing a collaborative process comes into play.
- [Local] There need to be conversations – whether it is about sage-grouse, brucellosis or big horn sheep. You have to be at the table and develop collaborative relationships. It is the single most important thing that can be done.
- [Local] The one-size-fits-all, top-down solution never works when compared to allowing state and local governments to work with people on the ground and develop solutions that reflect the needs of species and the communities. An example of what doesn’t work is the across-the-board requirement of having seven-inch tall grass for sage-grouse. There are some areas where the grass doesn’t even grow to be seven inches tall.
- [State] The value of collaboration is spreading out the work amongst multiple parties. Rulings and decisions can be upheld because of the collaborative effort that goes into building a conservation strategy. Everybody has skin in the game. Collaborative efforts like the Sage-Grouse Initiative serve as models for future conservation. They are expensive, but you can share some financial responsibility with other parties.
- [Local] There may have been a time in America’s past when inflexible laws were necessary to overcome cultural apathy towards conservation. America’s conservation laws have not kept up with the new cultural conservation ethic. Allowing for more local input and an honest assessment of socioeconomic impacts is not a threat to species viability. Rather, it can be an asset in creating regulations that can be embraced at the local level. The best decisions are made by local people working in good faith with state and federal agency personnel.

Theme: Landscape-Level Conservation for Multiple Species and Ecosystem Management

Ecosystems Management

- [Sportsmen] Single species management is a primary flaw of the ESA. It should take careful consideration of the entire ecosystem.
- [Local] It seems like ecosystems and economies are becoming fundamentally unbalanced. ESA listings on the West Coast have put a lot of people out of business and the decline in logging and active forest management have led to an unhealthy forest. This year there have been tremendously large forest fires. Historically, we have been laser focused on specific threats, but not looking at the whole picture.
- [Conservation] There is a need to utilize landscape-scale, science-based efforts to avoid listing in the first place. This comes from active management on public lands and healthy budgets to manage conservation.
- [Sportsmen] In a listing context, continuously adding species to the ESA does slow down the process. Instead, we need to look at conserving ecosystems and multiple species on the front end like we did with sage-grouse. Conservation efforts focusing on habitat should provide an umbrella that conserves multiple species.
- [Industry] Everyone supports ways to help species, but many are still frustrated at the extreme focus on a single species. It seems that at times we are managing one species so intensively that it comes at the expense of other species.
- [Federal] There has to be a landscape approach to conservation. That said, we need to figure out what landscapes to focus on but not scale up management too quickly.

Adaptive Management Tools

- [Industry] What is needed are more incentive-based programs and partnerships that are implemented on a programmatic or landscape-level, such as the Sage-Grouse Initiative. These are win-wins for the species, habitat and stakeholders.
Theme: Investment in Science and Measurable Outcomes

Best Available Science

• [State] The ESA clearly says that the Services shall use the best available science, and they do use the best available science for listing. The Services need to also use the best available science for delisting species.
• [Sportsmen] If we trust the science going into a listing, we should trust it coming out on the delisting side.
• [State] We need consistent application of the Act. Best available science is used for listing, and it should be used for delisting as well.
• [Industry] There would be a great benefit in developing a strict policy for peer review procedures which help to avoid or minimize conflicts of interest and set minimum standards for scientific and commercial data used in listing determinations.
• [Agriculture] There's often more than one way to recover species. For example, some stream restoration programs are finding more success with bulldozers than they are in waiting for floods to manipulate sand bars. Most programs need to do some form of adaptive management.

Uncertainty and Risk

• [State] We have to be very cautious about being numerically driven and losing sight of the bigger picture. That’s why many have resisted population numbers at any given time as a metric.
• [Agriculture] Federal agencies need to be consistent and transparent when they evaluate conservation efforts. It’s disappointing when entities that should be able to consistently interpret what certain conservation practices mean to a species are so often in different places. Stakeholders need to understand when a practice is implemented exactly how that practice is going to be considered in the listing process.
• [Industry] All parties would benefit from both FWS and National Marine Fisheries Service (NMFS) making available all data being consulted in petition and review prior to a listing proposal. Too often stakeholders are left guessing at how the federal agencies got from A to B.

State & Local Science, Data and Expertise

• [State] Conservation has to be agile and adaptive. Work is never done and a lot of times the work implemented has never done it.
• [State] State agency biologists, technical personnel and scientists have the technical expertise, background and the know-how of what species need and what their habitat requirements are. They are able to really make those educated, important decisions on how to move forward to conserve, recover and ultimately delist species, while considering the economic implications of what those conservation actions really mean on the ground.
• [State] We need the latest and newest science, but there is more science than just biology -- there’s ecology, there’s geology, there’s fluid dynamics. There are all of those engineering components that play a part in what can be done, and we need to use all of that science. We’ve got to be proactive, we’ve got to be predictive, and we’ve got to be inclusive of the people closest to the ground.

Theme: Listing, Recovery, and Delisting Process of ESA

Listing

• [State] It does appear that there’s been a lot more effort toward listing species than delisting.
• [Conservation] The ESA should not function like an emergency room. There needs to be more preventive care.
• [Local] There needs to be an economic analysis before listing. Agencies need the economics to figure out strategies to mitigate those losses. The federal government needs to be a driver in this and not force individual states, counties and individuals to bear the economic burden.
• [State] All of the state agencies are understaffed and underfunded for the pace of listing and petitions being thrown at FWS. The FWS’ recent proposed changes to petition process is a step in the right direction -- the proposal would require coordination with states and state agency staffs and would limit each petition to one species at a time. These changes could limit the pace of listings and allow for states to participate in that process. That would help immensely for everyone’s workloads.
• [State] It doesn’t seem like climate change was thought of when the ESA was passed. The FWS is required to look at all threats to species. There needs to be a discussion on whether it is acceptable to look at a threat 30-40 years down
the road when we don’t know the adaptability of species. Should it be considered a primary threat? People have said, "Why bother with a recovery plan if we can’t impact what’s going to happen anyway?"

- [State] While adding flexibility to the Act would be helpful, it is currently administered extremely inconsistently not only across species, but from state to state. While state managers would benefit from some flexibility, the inconsistent administration of the Act on a local or regional basis has created some very significant problems for the states.

**Recovery and Delisting**

- [Sportsmen] We need clear, science-based and regulatory goals that trigger a delisting.
- [Recreation] By all accounts, grizzly recovery has worked; same with wolves. No doubt, both species are icons and a draw for clients. The ESA accomplished what it was intended to do with these species, but overall it does not allow for success. The FWS brokered a deal with Wyoming: once the species are recovered, they’ll be delisted. The majority of folks accepted the regulations and moved forward with the understanding that an end point was in sight.
- [Local] There was an idea brought up in Washington, D.C., last year that if a species is listed it can be on the list for five years and then automatically come off the list unless it can be scientifically proven that it needs to stay there. This has merit. More effort in proving species need to be on the list would create balance.
- [State] The ESA has been constructive but there’s been more effort in listing than delisting species. There aren’t delisting biologists. It takes a long time to move through recovery programs.
- [State] States have to get on the same page to avoid listing. Montana has large grizzly populations elsewhere in the state but can’t delist those grizzlies until Greater Yellowstone bears are delisted. States have spent a lot of money on grizzly bears but a species listed as a whole cannot be delisted as a distinct population segment (DPS).
- [State] We do have to respect that every state has its own politics and one size isn’t going to fit all. There are local challenges that have to be accounted for. If we don’t start looking at delisting species by DPS there seems to be no end in sight for many states.
- [State] It’s imperative that you have local and appropriate input on recovery criteria.
- [Industry] Recovery under ESA Section 4 is really the cornerstone of the Act. Too often recovery seems to get the backseat to other items. An example is the Wyoming toad which was originally listed in January, 1984 and finally got a recovery plan this year.
- [State] States have to be in the driver’s seat in recovery planning discussions with federal and stakeholders’ involvement. They have the expertise and access to information. The ESA should set a timeline for development of a recovery plan. It is unacceptable to wait 15+ years for a recovery plan.
- [State] The economics of recovery have to be considered. The ESA can seem blind to that.
- [Federal] Land management is always a balancing act. There are no set priorities and agencies must manage for multiple use. Forest Service (USFS) looks to ESA Section 5 first. Section 7(a)(1) also frequently referenced withinUSFS. Section 7(a)(2) consultation a huge piece of what they do. USDA Regulation 9500-4 gives a tier-down instruction for adhering to ESA. A challenge from federal standpoint is that verbiage in regulation is open for interpretation. That creates the need for a balancing act. Language in ESA regulation needs to be flexible enough to look at things from a local level.

**Critical Habitat**

- [Industry] Many question the value of the critical habitat process. That is not to say that habitat is unimportant, but the current system isn’t as effective as it could be and seems to take up a lot of FWS time.

**Funding and Agency Capacity**

- [State] States take the charge of responsibility for management of all wildlife very seriously but the fact is that the North American sportsmen funding model generally leaves wildlife agencies with inadequate funding. If we go down the sage-grouse route on every species, there needs to be recognition that we need additional capacity built into the system to handle those types of landscape-level efforts.
- [State] Funding is a huge issue. There needs to be adequate federal funding for federal management of species.
- [Agriculture] All citizens who want to recover these species should be part of the solution. That comes with paying the way to that recovery.
- [Industry] The Services are being overtaxed by a flood of listing petitions and associated lawsuits driven by a "sue and settle" strategy. Agency resources are overstretched by having to address these issues and consequently have little time to support the lasting voluntary initiatives designed to balance development and provide for species and their habitat.
Timelines

- **Agriculture** There's a significant amount of uncharted territory within the ESA to be flexible with implementation. The challenges with doing those things in a timely fashion need to be overcome. Some subtle adjustments within the Act could go a long way to improving flexibility around deadlines.

- **Agriculture** With sage-grouse, there are five years to prove that we have been successful. A principal concern is that those five years will consist entirely of implementing these voluntary programs. They need to go online today. We shouldn’t quibble over infinitesimal degrees of science.

- **Industry** The ESA’s 12-month status review period really doesn’t provide adequate time for conservation. Given the National Environmental Policy Act (NEPA) process, it takes a lot longer than 12 months to put together a CCAA. Moving out the window for the status review would be incredibly beneficial for species.

- **Industry** Our (electricity) generation stations are designed to last more than 40 years in some cases. With those long planning horizons it can be difficult to manage the constantly shifting landscape of the ESA.

- **Industry** Regarding the differences in timeframes between ESA Section 7 processes and Section 10 processes, an improvement can be made by adding some specified timeframes to the Section 10 process.

- **State** The time that it takes the FWS to develop recovery plans is completely out of balance with other timelines in the Act. There needs to be a set timeline for the development of recovery plans.

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**Workshop Breakouts Appendix**

**Cody, Wyoming**

This Appendix presents the ideas generated during Breakout Session discussions at the Cody, Wyoming, workshop of the Western Governors’ Species Conservation and Endangered Species Act Initiative held on Nov. 12-13, 2015. Ideas emerging from these breakout sessions, when combined with follow-up questionnaire responses, served as the foundation for workshop roundtable discussions and webinar topics to follow.

Participants in the Cody breakout groups were tasked with creating a series of brief suggestions on ways to improve species conservation efforts and the efficacy of the ESA. Suggestions generated fell into 11 major categories:

- 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 Reform
- Values and Principles

**Landscape-Level Conservation and Ecosystem Management**

- Develop alternatives to include multi-species and/or an ecosystem approach
  - When an action doesn’t work, change it. Don’t keep trying to put a square peg in a round hole.
  - Give more consideration of impacts from listing on other species.
  - Put more effort into adaptive management.
  - Adopt whole-ecosystem focus, not land ownership-based.
  - Reclamation and re-vegetation for sage-grouse benefit multiple species. Don’t lose sight of the greater value.
  - Encourage adaptive management.
  - Focus on general habitat improvement (maintenance) not solo species.
  - Move away from single-species management.
• **Manage on an ecosystem scale**
  - Focus ESA on landscape outcomes instead of single species management.
  - Change focus to habitat (forest, range, farm, water) management.
  - Focus on habitat vs. single species.
  - Adaptive management is a must. Not everything works.

• **Expand multi-species and landscape-level partnerships**
  - Take advantage of, and expand upon, multi-species, landscape-level partnerships.
  - Provide incentives to participate, i.e., “credits” for proactive/preventative investments.
  - Weight the value of a “credit” based on the benefit to multiple species (ecosystem approach). A credit that benefits numerous species should have more value than a credit targeting single species.
  - Make ESA decisions based on pragmatism (balance); e.g. balancing eagles and sage-grouse.
  - Adopt habitat approaches to benefit multiple species.

• **Recognize the need for multi-species management**
  - Identify conflicting rules and laws dealing with threatened and endangered species and other resources and requirements (e.g. Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, fire prevention requirements, conflicts within different endangered species management) and work with appropriate agencies and stakeholders to prevent these conflicts.
  - Consider overall ecosystem vs. single-species protection.

• **Use ecosystems landscape-level approaches**
  - Monitor the science. This is experimental and one giant hypothesis. Thoroughly vet and test things to the point where we feel confident in delisting.
  - Science isn’t just held back by funding. It is also limited by access, transparency and applying scientific findings to practice on the ground.
  - Science is not just biology. It is also economic science and local knowledge as science. Things don’t have to be peer-reviewed to be beneficial science.
  - Science guides the process.
  - Integrate and invest in the science.
  - Consider the whole ecosystem when performing a scientific evaluation.
  - Focus on rewarding positive actions instead of punitive measures.
  - Use better planning across land ownership boundaries. Bureau of Land Management (BLM), USFS and private land managers need to communicate on planning.

• **Develop and use tools to manage land for species**
  - Manage lands for species enhancement, prescribed burns, forest health projects, trails restoration and species monitoring.
  - Enhance the use of on the ground management tools.
  - Invest in monitoring.
  - Utilize adaptive management techniques.
  - Relocate trails out of sensitive areas.
  - Don’t re-invent the wheel. Build on previous successes.
  - Revamp rules for implementation.
  - Ensure conflicting management and policies do not hinder achieving conservation goals.
  - Simplify and improve access to landowner tools for species conservation and recovery (Candidate Conservation Agreements with Assurances and Safe Harbor Agreements).
Science and Measurable Outcomes

- **Promote quality, science-based decision-making**
  - Publish successes in peer-reviewed literature.
  - Listing priorities must be need/science-based, not litigation-based.
  - Develop specific, measurable, attainable benchmarks for species conservation and abide by commitments to list or delist based on findings.
  - Ensure best available science is used in both listing and delisting.
  - Enhance Data Quality Act in quality and quantity of species conservation science.
  - Define what is acceptable in peer-reviewed science and what does not qualify as peer-review.

- **Improve use and application of science and data**
  - The data and science used for listing and delisting decisions needs to be improved. Data must result from a structured, unbiased and peer review process.
  - Data must be publically available and transparent to all parties in listing determinations.
  - Consider commercial data as stated in the ESA.
  - Centrally compile data from various agencies and sources.
  - Require agencies to set species protection requirements on science, not arbitrary standards.
  - Agencies should delve further into the science before deeming a species in need of conservation.
  - Ensure transparency in the data and science included in petitions to list a species.
  - Provide a robust definition of "best available science" and institutionalize that.
  - Compile the data that exists at the variety of agencies for use in determining population trends (something similar to the Wyoming Natural Resources Database, for example).

- **Integrate and invest in the science**
  - Invest in more science to be proactive about species conservation. Identify early on which species are declining.
  - Need more data and research to support decision making.
  - Convene an assessment to identify the priority landscapes for a landscape-level sage-grouse type effort.
  - Require inclusion of local knowledge in scientific evaluations by the U.S. Fish and Wildlife Service (FWS).

- **Promote cooperative monitoring and efficient data acquisition and use**
  - Utilize cooperative surveys and monitoring to identify ranges and habitats.
  - Cooperative habitat assessments for project related work.
  - Acknowledge impacts of invasive species and address those threats.
  - Use best data possible or available. This can mean better reliance on state data.
  - Candidate species: Post Multidistrict Litigation Settlement - allow this designation once again along with funding to states to focus conservation efforts on those candidate species.

- **Improve the consultation process**
  - Develop umbrella biological opinions for similar activities with low levels of impacts (similar to Section 404 nationwide permits). Multiple agencies could rely on these and would confirm and cover FWS decisions.
  - Make allowances to issue “umbrella” biological opinions for one or group of species for agencies to use. Define the box. If the action fits in the box then abbreviate consultation.
  - Alter the way the National Environmental Policy Act (NEPA) is conducted for Section 10 permits. Make the process more programmatic.
  - Allow more flexibility for mitigation, similar to what the historic preservation act allows.
Incentives and Proactive Efforts

• **Expand landowner incentives that work for private landowners (incentivize public land permittees and lessees)**
  - Recognize key role of private land managers.
  - Emphasize the critical nature of working lands. Move beyond simply retiring land as an easement.
  - Incentivize preventative actions to avoid listings.
  - Utilize and better leverage mitigation dollars.
  - Educate public about role of working lands.
  - Increase the diversity of incentives for landowners and make them more accessible.
  - Increase support and assurances for voluntary conservation.

• **Expand incentives and proactive efforts**
  - Expand incentives, assurances and certainty for proactive voluntary conservation initiatives which are recognized by land management and wildlife agencies.
  - Advance the role of industry in voluntary conservation processes and provide assurances with a significant degree of certainty in exchange.
  - Require an "in lieu" fee for mitigation. Use the case to allow states a greater role.
  - Candidate Conservation Agreement with Assurances (CCAAs) and Candidate Conservation Agreements (CCAs) should be extended to mineral releases and perhaps easements for the term of the lease agreement.
  - Develop a method for consideration of adaptive management in voluntary conservation programs.
  - Fully fund and implement recovery planning, including mandatory plan updates.
  - Consider funding incentives to states to develop conservation agreements to avoid a listing.
  - Recognition of industry best management practices (BMPs) as avoidance and minimization. Allow flexibility for mitigation.

• **Incentivize conservation**
  - Assure dedicated funding at multiple levels.
  - Incentivize collaboration sooner to pre-empt species decline.
  - Provide non-government incentives through collaborative programs.
  - Incentivize citizens to be part of the solution.
  - Need mechanism to formally recognize and credit proactive action codified in policies.
  - Give stronger consideration of economic impacts.

• **Encourage further development of financial and regulatory incentives.**
  - Develop and improve strategy to look across all lands, including private, for species conservation.
  - Change the paradigm. Species and habitat should be viewed as an asset not a liability for landowners.
  - Implement long-term, but not perpetual, conservation incentives.
Economic Analysis

- **Require socioeconomic analysis for species conservation**
  - Consider the use of social impact analysis of listing decisions.
  - Consider economic in listing decisions. Look at impacts on farms, ranches and rural communities.
  - Acknowledge the role of business planning in ESA planning.
  - Required socio-economics analysis at the time of listing decisions.

- **Consider economic impacts**
  - Economic analyses must consider all direct, indirect and cumulative impacts, including those associated with consultation and mitigation.
  - Consider economic impacts of compensatory mitigation.
  - Economic analysis of critical habitat is based on narrow range of input. Expand the scope of analysis.

- **Require consideration of economic impacts prior to listing (legislative action)**
  - Define and mitigate economic impacts.
  - Recognize that there is a cost to listing decisions. That cost should factor into the analysis. Include who bears the cost.
  - Increased transparency on the science and data used to determine if listing or delisting is warranted.
  - Incentivize landowners and land users before species get to “candidate” stage.

Funding

- **Reprioritize federal funds to effective species conservation**
  - Utilize Land and Water Conservation Fund funding to assist state conservation efforts.
  - Federal government and the people of the nation must help pay for species conservation in a meaningful way.
  - Equal resources must be devoted to delisting. Too much emphasis on listing by FWS.
  - Increase funding and promotion of FWS Partners for Fish and Wildlife Program.

- **Assure dedicated funding to multiple levels**
  - Ensure adequate funding for conservation activities and projects on the ground.
  - Increase and diversify sources of conservation funding.
  - Find new money sources for threatened and endangered species conservation so hunters and anglers aren’t carrying undo weight of funding.

- **Enhance resources for States, FWS and National Marine Fisheries Service (NMFS) to carry out their responsibilities.**
  - Adequately fund FWS and NMFS to carry out their responsibilities.
  - Assure state funding for species of greatest conservation need (SGCN) and state wildlife action plans (SWAPs).
  - Assure adequate funding for project implementation and species recovery.
  - Give additional consideration of funding for truly voluntary conservation. It’s not voluntary when you sign on the dotted line.
State and Local Coordination

- **Enhance state and local governments’ authority, responsibility and accountability**
  - Increase state involvement in listing and delisting decisions.
  - Allow states to develop recovery plans if they choose.
  - Ensure that states and counties have an active role in the entire ESA process. Don’t just check the box.
  - Ensure that states, counties and landowners are involved in critical habitat designations and management.
  - Federal planning documents like risk management plans must be consistent with state plans.
  - States must retain responsibility for all wildlife, including threatened and endangered species.
  - States have to fail at pre-list conservation plan (cooperative agreements Section 6) to list a species.
  - Provide the flexibility to delist on political boundaries based on adequacy of state management.

- **Enhance state involvement**
  - Improve states’ roles in the ESA process by allowing engagement in settlement agreements.
  - Create opportunities to develop conservation agreements to avoid listings and to formalize states’ ability to develop implementation plans.
  - Feds should be required to fund states for 100% of management programs for the ESA.
  - FWS permitting process is too slow. States could be the answer.
  - Formalize states’ ability to develop conservation agreements in the ESA to avoid listing and recovering or delisting listed species.

- **Require coordination and collaboration with state and local government**
  - Facilitate state involvement early pre-listing.
  - Make full use of state and FWS cooperative agreements under ESA Section 6.
  - Increase shared authority and responsibility for the ESA between state and federal governments.
  - Clarify state role in all steps of the ESA process.
  - Require notification and input from local government on listing petitions and regulations.
  - If state, local and federal agencies agree on conservation or recovery plan, Washington Office (WO) must sign on and may not require anything additional.
  - Provide more forums for states and partners to keep talking about species conservation issues.
  - If modeling is utilized by the federal government, states must be partners.
  - Local government and industry stakeholders need to be involved sooner.
  - Require consultation with all potentially affected government entities in ESA decisions.

Collaboration

- **Require community engagement in decision making processes**
  - Break down silos. We need more partnership between the USDA and DOI.
  - FWS must actively engage the public and landowners on the land to promote conservation.
  - Improve up front participation and collaboration of diverse groups prior to species being listed.
  - Interest groups must accept responsibility to educate membership on the importance of working across interest boundaries.
  - Use communities as the basis for engagement. Need to build trust organically.
  - How can we be successful with local collaboration when one attorney and one judge can stop or delay all successes?
  - Identify and ensure broad representation of all interests in decisions and management.

- **Develop and foster inclusive, diverse collaboration toward solutions**
  - Recognize the diversity of conditions among states in planning processes.
  - Establish working groups and partnerships before we need them.
• Share tools that have been successful locally across political boundaries.
• Ask and involve volunteer groups to help on a local level.
• Identify landscapes and species ripe for proactive and collaborative approach.
• Engage local stakeholders and improve communication to public.
• Provide predictability in all steps of the process. This allows folks to get involved rather than dig in their heels.
• Do more to broadcast success stories to the public. Help people understand the work that goes into these collaborative efforts and celebrate that.
• Do something to start moving the ships of old organizational culture toward more collaborative, less top-down approaches.

**Delisting and Recovery Goals**

- **Identify clear recovery goals, with flexibility to reach goals**
  - Ensure planning documents are setting achievable objectives.
  - Base delisting on clear metrics present in recovery plan goals.
  - Concrete recovery benchmarks with triggers should be required for listing.
  - People pull away when they can’t anticipate an action. Certainty is needed to keep everyone at the table.
  - Change the Act. No listing as long as key indicators being met for pre-listing.

- **Develop recovery plans on a timely basis**
  - Develop recovery plans on a timely basis that are based on best available information.
  - Provide clear timeframes for the development of recovery plans.
  - Ensure accountability to meet species goals or measure progress towards goals at specified intervals.

- ** Allow bifurcated distinct population segments (DPS) listing and delisting process**
  - Allow bifurcated DPS decisions for both listing and delisting decisions that recognize state implemented conservation efforts
  - Be able to split range-wide species listings decisions
  - Prioritize a focus on showing success in achieving delisting decisions. It’s important to show the certainty that a species can predictably achieve delisting.
  - Goals for recovery should be standardized.

- **Clarify and prioritize recovery and delisting and use transparent process**
  - We need more consideration of impacts to other land uses from recovery plans.
  - Evaluate what win-win opportunities exist but are not being employed in current ESA listed species.

- **Establish realistic recovery goals collaboratively**
  - Ensure collaboration in recovery planning.
  - Develop clear and immediate criteria for recovery to accompany a listing.
  - Provide clear goals for when a species is considered recovered.
  - Develop “grouped” recovery plans for species with similar threats or on similar landscapes.

- **Ensure delisting upon meeting recovery goals**
  - Delisting procedures streamlined.
  - Who makes the decision of when good is good enough?
  - Delist using same criteria as listing.
  - Delist upon meeting recovery goals. Explore avenues to reduce litigation.
If there is a need for listing, then timelines are needed to reassess when a species can be considered for delisting.
Set clear expectations for progress assessments and check-ins on listed species.

Timelines

- **Make timely implementation of all ESA actions**
  - Streamline permitting processes.
  - Provide a programmatic process for conservation agreements that move to implementation in under 120 days.
  - Have time requirement for development of recovery plan.

- **Establish timelines for Section 7 and Section 10 consultation**
  - Create accountability and obligate time-frames for Section 7 and 10 consultation. If an agency does not comment or respond then projects should move along.
  - Address the process issues of timeliness, definitions, and mitigation requirements.

- **Allow flexibility in petition timelines**
  - Allow flexibility on mandatory listing and delisting timelines to allow for the development of conservation practices data collection to establish population trends.
  - Consider longer timeframe when science conflicts. It takes three to five years to gather good science.
  - The Services should consider allowing listing determination delays if states are working on or developing conservation agreements and the species is not in jeopardy of extinctions.
  - Short time frames inhibit the development of proactive conservation tools.
  - Allow time for NEPA once the petition sets the clock or shorten NEPA timeframes. NEPA process inhibits development of conservation programs.
  - Extend the 12 month listing time frame to allow more data and conservation actions.

Law and Policy Reform

- **De-incentivize ESA litigation**
  - Put limits on ESA decisions that are subject to judicial review.
  - Remove Equal Access for Justice payments for species litigation.
  - Shift costs to on-the-ground action and away from litigation.

- **Put all regions for Partners For Fish and Wildlife under refuges**
  - Move all regions of the FWS Partners for Fish and Wildlife Program under the refuge system instead of ecological services.

- **Reform the petition process**
  - Reform the petition process to: eliminate multi-species petitions; increase transparency to ensure one online repository that lists all petitions and any data relied upon for responding; and loosen timelines to provide ample opportunity for states, cooperators, counties and stakeholders to respond.
  - Require petitioners to pay for any additional data collection required to respond.
  - More stringent rules needed on petition filing. Can the burden of proof be shifted to the petitioner?
• Reform the Equal Access to Justice Act\textsuperscript{17}
  o Reform the Equal Access to Justice Act to remove incentives to utilize administrative timelines
to force action without adequate time to develop science.
  o Address the “sue and settle” dynamic in the ESA process.

• Limit critical habitat designation\textsuperscript{18}
  o Critical habitat designations should be limited to areas occupied by the species and finalized
only after all affected parties have been notified and provided an opportunity to comment.

• Carry out litigation reform (from pre-listing to de-listing)
  o Reform litigation to provide predictability throughout the process.
  o Limit the judicial challenges on delisting rules.

• Improve ESA procedures
  o Continue Level I and Level II meetings between FWS agencies to streamline eSA Section 7
consultations.
  o Consider the effect of ESA changes on other statutes like NEPA and the NEPA planning process.
  o Simplify the Policy for the Evaluation of Conservation Efforts (PECE) so voluntary and
unimplemented regulations can meet requirements.
  o Lengthen timelines for 90-day and 12-month findings to increase quality of information and
transparency in analysis and decision making.
  o Solicit NGO and general stakeholder conservation concepts as part of the pre-listing
assessment.
  o Ensure FWS leadership policies are communicated to, understood by, and implemented by
regional, state office, and species lead staff. This will lead to consistency regardless of location.
  o If listed, reassess and reaffirm threatened or endangered status after determinable time.
  o Allow the FWS the authority to prioritize listing petitions.
  o Recognize that 12 months may not be long enough.
  o Prioritize large landscapes for conservation efforts.

• Reform the judicial review process for the ESA and the Equal Access to Justice Act.
  o More focus on the purposes of litigation. Different standard for consensus agreements?

**Values and Principles**

• Maintain spirit of original intent of the ESA\textsuperscript{19, 20}
  o Can we agree that extinction is unacceptable to us all?
  o Maintain the hammer of the ESA. Do not weaken the ability of the ESA to drive conservation
actions.
  o We need to preserve the framework for species management created by the ESA.

• Educate Office of Management and Budget and national interests regarding the value of what we do and why\textsuperscript{21}
  o Explain the value of species conservation actions and why they are necessary to those working
in D.C. that are not connected with the land.
Workshop Roundtable Appendix
Boise, Idaho

This Appendix collects paraphrased viewpoints captured during roundtable panel discussions and breakout sessions at the Boise, Idaho, workshop of the Western Governors’ Species Conservation and Endangered Species Act Initiative held on Jan. 19, 2016. The Appendix is organized by the six overarching initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector of stakeholder whose viewpoint is presented.

**Theme: Incentivizing Proactive Voluntary Conservation**

**Assurances**
- [Agriculture] Landowners are overwhelmed by the complexity of conservation and assurance programs. Federal agencies need to seriously examine how to simplify and expedite the process for Candidate Conservation Agreements (CCAs) and Candidate Conservation Agreement with Assurances (CCAAs) if there is to be more involvement in the programs.
- [Agriculture] Incentivizing private landowner conservation comes down to regulatory certainty, clear recovery goals, financial returns, and public land certainty. Private lands conservation depends on the ability of a landowner to conduct conservation activities. The productivity of working lands must remain viable in order for private land conservation to take place. Otherwise, options for financial viability for landowners are subdivisions, gravel pits, or other developments without public land access.
- [State] The Range-Wide Conservation Plan developed a program where landowners benefit by receiving payment for conserving lesser prairie chicken on their land. The program is built on an upfront definition of conservation needs for the bird so that industry knows what to do to avoid, minimize, and mitigate. Private investment from companies goes into a voluntary program and the program doesn’t use any federal dollars.

**Monitoring and Early Action**
- [Local] Local folks pay attention to which voluntary conservation programs are working for their neighbors. A local benefit in one area goes on to serve as an example of success that can be built on in other areas.

**Incentives vs. Regulatory Hammer**
- [Agriculture] There is reluctance by federal agencies to allow practices that garner regulatory relief and financial return simultaneously. It’s not double-dipping and the landowner needs that financial return to proceed with practices that will garner regulatory relief.
- [Conservation] In observing a lot of species conservation efforts without the threat of an impending listing, and then watching them when the listing issue is raised, it is clear that the level of seriousness, participation and investment increases when listing is on the table. Listing should be a backstop. The preference is to avoid it. We have better tools, and we should look at how to act before the threat of a listing.
- [Local] Incentives work far better than penalties or restrictions.
- [Local] Species conservation works better through voluntary action instead of the threat of penalty. Penalties can result in loss of business and loss of agricultural lands through sales and development that don’t benefit species.
- [Industry] When agencies analyze plans through the Policy for the Evaluation of Conservation Efforts (PECE) process, they were generally looking at very discrete measures rather than looking at the totality of the plan.
- [Agriculture] The ESA is a necessary motivator, but with some changes it can be a more effective motivator. It should be part of a suite of incentives.
• [Water] Market-based solutions where federal government and environmental communities buy in to the system work best.
• [Local] Success in locally-led conservation is high, based on incentives for local residents to be involved and multiple partners having buy-in.

Transparency
• [Conservation] We need get stakeholders involved early and keep them involved through transparent information sharing. It all comes down to transparency. That helps to create, build and maintain trust. No incentive is good enough to keep people at the table if they don’t understand and care about the ultimate goal.

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

Federal-State-Local Consultation and Collaboration
• [Water] States can be valuable partners in providing support for voluntary conservation, especially when water issues are involved. The Elephant Butte success story in New Mexico is a great example. Market-based solutions were employed where federal and environmental entities bought into the system
• [Consulting] Succeeding in leveraging state resources more effectively in species conservation is extremely difficult when you have a certain level of distrust at the core of most ESA decisions that the Services make. To get past that, the Services need to make concerted efforts to keep decisions as close to the local level as possible. Trust is essential in species conservation decisions. There are valid perspectives on both sides of most issues, so it takes a lot of hard work and concerted effort to listen to one another and find a solution that works.
• [Industry] There is a challenging dynamic between state and federal agencies. Federal agencies want mitigation on federal land and states don’t. Federal agencies don’t want industry to buy conservation easements, and states view mitigation as something land management agencies should do on their own land. One problem from the perspective of someone looking to mitigate for the companies’ impacts is a misalignment between the credits received and the level of threats to species.
• [Sportsmen] There is a lot of effort that goes into collaboration, resolving and settling issues, and arriving at resolution. Once that is done, the next step is funding, statutory changes, or something from the legislative or executive branches. That’s where it’s falling apart. We just can’t seem to get any help from Congress on a lot of these collaborative solutions.

Stakeholders’ Role
• [State] More partnership across land ownership boundaries is needed. Not being allowed to partner with federal programs and cost-share those efforts results in less conservation on the ground.
• [Local] Local knowledge and buy-in are critical to success. Local leads to state, which leads to species success, which leads to long-term success.

State & Local Science, Data and Expertise
• [Local] A top-down approach results in a one-size-fits-all style, and that is not always the best. It can destabilize things that have already been working on the land.
• [Industry] There is a great advantage working with states. State provision of their programs is more understandable. They approach regulation from a more pragmatic perspective of balancing economic needs with the need to conserve species. If there has to be regulation, have it at the state level. They are in best position to do it.
• [Industry] A state-based mitigation system that coordinates across state lines is needed. What doesn’t make sense is a permit-based system where the developer figures out what to do.
• [Legal] If you look at how the ESA defines “best available science,” the last part says the Secretary should take into account efforts being made by the state. The law recognizes the inherent tension between states and federal government. Part of what has been difficult in incentivizing private efforts is evaluating these efforts coming online in a reasonable time frame.
Theme: Landscape-Level Conservation and Ecosystem Management

Ecosystems Management

- [Industry] Mitigation should be looked at regionally. An initial challenge of planning mitigation for sage-grouse was that mitigation was thought of as exclusively in-kind and in-place. How would that benefit sage-grouse on a landscape-level in the case of the transmission lines? We recognized that mitigation needed to do the best for the bird in the most appropriate places based on best available science.
- [State] Many attempts to address conservation measures on an ecosystem basis with different land ownerships and habitat types collapsed under the weight of the high costs and time restrictions of the National Environmental Policy Act (NEPA).
- [Agriculture] It is important to focus on the function a species serves in a system and how important that function is. Use this to identify the critical components in an ecosystem.
- [Agriculture] Private land conservation can be done if it’s done on a landscape-level that includes public lands as well.
- [Conservation] Planning across landscapes for multiple species allows for more creativity and more options.
- [Industry] We have to be careful in dynamic ecosystems with hard to control threats: it is easy to have a misalignment between the measures and the threats to the ecosystem. As land managers, we can only control grazing or mining. That may not amount to a lot for species when we can’t control fire and invasive species.

Adaptive Management Tools

- [Agriculture] The words of the ESA are fixed on paper, whereas the science has changed. The whole concept of mitigating an acre for an acre is a little 1960s. The modern concept is that we should mitigate for the services ecosystems provide, not necessarily acres.
- [Industry] It makes sense to see mitigation for sagebrush ecosystem rather than for sage-grouse specifically, but the challenge is defining what expectations and definitions of success are. We can measure sage-grouse, but it gets burdensome to monitor all of the species that make up an ecosystem. There’s some validity to using sage-grouse as a measure for other species, but that needs to be tested. From a regulatory and administrative standpoint, it’s tough to do.
- [State] Land exchanges can be a tool to achieve conservation and relieve land managers of the revenue-generation mandate of certain public lands.

Stakeholders’ Role

- [Conservation] A benefit of planning across landscapes and at multiple scales is more opportunity for public input. It creates a bigger vision that takes into account various landowners and users. It is more collaborative and more accurately reflects and addresses the situation on the ground.
- [Conservation] The landscape approach is more comprehensive and flexible than just looking at one species. It also gets more people involved.
- [Conservation] A landscape-level approach requires getting as many stakeholders as possible involved early and keeping them involved through transparent information sharing of what actions are needed to hit mutually understood goals.

Theme: Investment in Science and Measurable Outcomes

Best Available Science

- [Consulting] The ESA doesn’t provide criteria for determining who decides what best available science is.
- [Consulting] The best available science is what can be reviewed and scrutinized by a group of individuals to provide for the need to produce a document for ESA. Best available science is an ongoing process.
• [Consulting] We need to clarify that the assimilation of best available science is best done through process and not definition-setting. Also, specialized training needs to be provided for individuals at agency levels that participate in documents based on best available science.
• [Legal] If species can be listed with best available science, then why can’t credit best available conservation measures be credited? Need to adapt the Act over time to make those conservation measures part of its analytical framework. Deadlines under the ESA are unrealistic for analyzing a changing ecosystem. We need to look for a mechanism that provides some sort of proving ground to test-drive conservation measures if the states step up.
• [State] Peer review science isn’t the end-all. Any one paper or line from a paper doesn’t make the body of science. Gray literature and agency reports provide empirical information that is of great importance and has to be considered.
• [Legal] From a legal perspective, when science is the basis of significant regulatory decisions, it is generally better if we assume that the peer review process is perfect.
• [Industry] A lot of the credibility of peer-reviewed science is derived from the transparency of who you choose to be on the review. Some of what we may have seen in the sage-grouse context was a product of who was reviewing the data sets.
• [Academia] Scientists are simply trying to provide the correct information. Trouble comes when science tries to work in the policy realm and tell counties and agencies what is good and right. Scientists need to provide information in an unbiased way.

Uncertainty and Risk
• [Consulting] We don’t know enough about how natural systems work and we need to make decisions in a more experimental fashion, including socioeconomic and political considerations. When programs work, there is generally a consideration of those components involved.
• [Industry] Designating all potential habitats critical habitat because the agency doesn’t really know what the species needs doesn’t seem to be in service of the agency, the public or the species. When everything is critical, nothing is critical.
• [Consulting] There is a strong culture of risk avoidance in federal agencies, and this can limit progress and innovation in species management. Reward agency employees for taking calculated risks, and don’t constrain them to doing what has always been done.

Stakeholders’ Role
• [Consulting] Stakeholder involvement from the onset will emphasize that there will be a critical look at what’s considered best available science.
• [Legal] Science cannot be credible unless there is a stakeholder investment in it. There can’t be scientific winners or losers. There are negative consequences to distancing the partnership with states.

State & Local Science, Data and Expertise
• [Legal] Too much federal anything is bad. Nobody knows more than the state agencies that have a constitutional obligation to protect fish and wildlife. If states are left behind there’s a price to be paid.
• [State] Idaho Fish and Game looked at population metrics on the bull trout listing, but the recovery plan was threat-based. FWS determined best available science independent of the states, defining threats based largely on subjective assessment, and little used or cited scientific papers
• [State] Sage-grouse represents a huge best available science success. It was a highly collaborative effort that applied triage thinking. However, the addition of strategies after plans were completed to add protections without state review has created a question of policy versus science that will play out in the courts.
Theme: Listing, Recovery, and Delisting Process of ESA

**Listing**

- [Forestry] When determining special management considerations and protections, we need to ensure current land management plans are given full credit. Sometimes there is an assumption that nothing good can happen to benefit species without ESA protections. Also there is a perception sometimes that those plans are so changeable that they can’t be trusted.

**Recovery and Delisting**

- [Conservation] A central challenge to recovery under the ESA is the number of conservation-reliant species, which are species listed or at risk that require ongoing conservation action. That kind of conservation takes years of effort and complicated ecosystem actions require a broader set of tools than the prohibitions under the ESA.
- [State] FWS has a bias that threats are continuous and therefore ESA is always appropriate. This is a problem to address within the FWS.
- [Water] Recovery plans need to be identified at the time of listing. Without an endgame to these species listings, it is an immense challenge to enact voluntary conservation measures.

**Critical Habitat**

- [State] ESA Section 4 requires the FWS to designate those geographic areas occupied by the species at the time of the listing that contain physical or biological features essential to the conservation of the species. The current [regulatory] proposal would allow the Service to designate areas not used by the species on a regular basis, and FWS may rely on circumstantial evidence to determine occupancy. That causes states concern.
- [State] Under a new regulatory definition, “adverse modification” may result even if the habitat does not currently possess the requisite features but has the potential to provide them in the future.
- [Forestry] Critical habitat is defined in statute as specific areas within the geographic area occupied by the species at the time it is listed. The Services need to be clear and transparent on what the objective is when classifying lands as critical.
- [Sportsmen] Critical habitat identification is essential to determining the best way to recover species, but it is important to ask, “Do the costs and headaches of a critical habitat designation under the ESA outweigh the practical benefits?” Especially when designations result in legal arguments, a lot of resources and money end up being consumed that could have been applied to recovery actions.
- [Sportsmen] In the case of bull trout, the primary threats are introduced species and hybridization with brook trout. There is no way for a critical habitat designation to address these threats. We need to look at tying in critical habitat designations with recovery plans and realize that not all critical habitat is equally critical. There is critical habitat that has been designated where we will likely never see recovery, but it is treated equally by agencies and diverts resources from areas where we could really make an impact.
- [Local] The ESA and critical habitat are both ultimately tools to recover species, and I think we’ve failed to see that just locking up land without the ability to realistically improve habitat is not going to help species recover.
- [Local] We can designate anything on the landscape we want, but we need to actually do something and tie that designation to making it a recoverable piece of ground or water, not just create limitations through a designation.
- [Local] All habitat changes over time whether it’s critical habitat or not. It seems sometimes that restrictions accompanying critical habitat designations essentially make them as protected as wilderness areas. The important questions to ask are, “How do we maintain, improve and protect critical habitat. At the current time there doesn’t seem to be any way to take land out of critical habitat.
- [Forestry] It is appropriate and fair for everyone to understand the impact on the species and the resident humans from a listing and critical habitat designation. It seems count-productive to not display the potential impact on the species.
- [Forestry] There is a sense in communities that the Services tend to ask for the entire suite of potential habitat to be critical because they don’t really know what the species specifically needs. This creates a
chilling effect in the community and limits the use of some management practices which may actually prove beneficial to species.

- [Local] The Service says that they are only allowed to look at the economic impacts of critical habitat designations to their agencies budgets, but not the communities. This approach is fundamentally flawed.

**Funding and Agency Capacity**

- [Forestry] Forest fires are a result of the Service not pushing ESA Section 7 consultations through either due to political will or budget constraints. It is hard to think of a worse impact to critical habitat than that. Species listings are far more workable if critical habitat is listed at the same time.

**Timelines**

- [Agriculture] In the listing process, the timeframes do not allow or encourage state engagement and collaborative effort. The difference in sage-grouse was that the court provided eight years for states to take initiative and collaboration on sage-grouse.

### Theme: Law and Policy Recommendations

**Regulatory Efficacy**

- [Industry] There’s conflict between federal processes like NEPA and state-based processes. Clearly this issue of dealing with mitigation is a real problem. California is a poster child for that. It’s not uncommon for industry to have to mitigate separately for feds and states and it ends up costing ratepayers millions of dollars.

**Conflict and Litigation**

- [Water] ESA is sometimes a motivator for federal agencies to do their job. A lot of litigation is directed at them. It does work both ways. Many just think it is the land manager or the rancher that is motivated by the ESA, but it does press federal agencies as well.
- [Water] The ESA has produced a restrictive and litigation-oriented regulatory mechanism that does too little to recover species. The ESA directly impacts western water suppliers, sometimes drastically reducing supply.
- [Legal] A repeal of the citizen suit provision in favor of mandatory mediation or arbitration may work in some frequently litigated steps of the ESA. Up-listings or down-listings would probably be pretty tough to mediate. There are certain situations, like critical habitat or a Section 7 consultation, where mediation may be able to replace litigation.
- [Water] Arbitration can drag on and on depending on the Administration at that time. Eliminating the citizen suit in favor of arbitration is not necessarily an alternative to resolve disputes in a short period of time.
- [Industry] If you don’t have skin in the game and don’t have a relationship on the ground, you can be a barrier to progress. There are individuals and entities that serve as a barrier in these processes because they don’t have sufficient skin in the game. Some parties will fight tooth and nail and walk away without losing anything.
- [Agriculture] There is certainly a role in the ESA for mediation. Mediation is not a substitute for citizen suit provisions, though those need to be tightened up to work more efficiently and ensure that those bringing the lawsuits have more responsibility under those suits.
- [Legal] The ESA has evolved from a mortality based statute to one that addresses land use and fire and climate change. We are dealing with a different dynamic now than when the ESA was originally enacted.
- [Water] Some of the primary threats to voluntary conservation programs include the threat of litigation and a lack of certainty about what is required to satisfying the conservation goals set forward by FWS
This Appendix collects paraphrased viewpoints captured during Breakout Session discussions at the Boise, Idaho, workshop of the Western Governors' Species Conservation and Endangered Species Act Initiative held on Jan. 19, 2016. The Work Session Appendix is organized by the six overarching initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector of stakeholder whose viewpoint is presented.

**Theme: Incentivizing Proactive Voluntary Conservation**

**Assurances**

- [Industry] There must be value for stakeholders in taking particular actions. This goes back to predictability. If you're asked to downsize your operation, you need assurance that conservation effort will be monetized. There needs to be a set value for participating in conservation efforts that is monetized.
- [State] We need assurance that conservation credits go with the land. One concern echoed by landowners is the question, "If you create new habitat for a species, what happens when you try to sell the land?"
- [Local] Unintended consequences reduce incentives to cooperate. We need provisions for addressing unintended consequences of conservation actions. If you use wolf reintroduction as an example, the livestock industry got hit really hard to the point that thousands of livestock were lost. They thought they would conserve the wolf and create habitat, but it ended up impacting the industry to the point that some people went out of business. We also saw the loss of wildlife in northern Idaho to the point that they needed to remove some of the pack and the elk herd started to recover as a result.
- [State] Predictability is key. If you're going to get folks excited about voluntary conservation, they need to know the rules won't change partway through the process.
- [Agriculture] You need to understand what your options are and what path you're going to take. Folks want to know what those voluntary conservation options do for continued use on the land and monetary returns. If you're looking for incentives, what does each type of agreement give you? Is the land set aside or still working land?

**Conflict and Litigation**

- [Conservation] We need to be inclusive and recognize stakeholders on the other end of the spectrum, especially when a species has an active listing petition. There is a chance that certain groups don't think that enough is being done to protect the species. The emphasis needs to be on getting all of the stakeholders together, including those who are petitioning, in order to avoid litigation.

**Monitoring and Early Action**

- [Agriculture] Understanding the critical nature of private landowner commitment to conservation is essential to all of these efforts. There is an incredible amount of creativity within the landowner community to integrate real solutions that work on the ground and balance conservation objectives with simply keeping agriculture in business.

**Incentives vs. Regulatory Hammer**

- [Local] We need to identify funding opportunities prior to engaging stakeholders. This gives people confidence that there will be something doable in the end.
- [Conservation] We need to find creative funding opportunities. A portion of the Land and Water Conservation Fund can be used for stewardship instead of easements. Besides mitigation money, there is very little available for voluntary conservation. In Idaho there are only eight or nine grants per year. This could be expanded.
- [Local] Private foundations are an option for funding for different projects.
• [State] We need to remember that agencies can provide assistance other than dollars. Rural landowners who don’t have money for attorneys need agencies to help them through these processes. The Natural Resources Conservation Service (NRCS) and local conservation districts are the point people.
• [Local] In Idaho, the Office of Species Conservation can help locals who need assistance.
• [Agriculture] We need to remember that conservation is active management. It goes back to the idea that conservation practices can be mutually beneficial. It’s not idle. It is active management and can involve increasing productivity.
• [State] It is essential to incentivize actions as opposed to acres. We have to figure out a way to use the available land to create the most habitat possible.
• [Local] In a county dominated by federal land, conservation easements can lock up a lot of private land. There needs to be some conservation tools other than permanent easements.
• [Conservation] We need to provide periodic payments for protection of ecosystem services as long as the land is managed to certain standards. This benefits the business but doesn’t tie up land in perpetuity.
• [Industry] You might find greater agreement if choices were framed differently so that people are not debating whether to conserve a particular parcel of land. Rather, the discussion could be framed as using public funds to meet specific conservation objectives, which doesn’t necessarily lock folks into tying up the land.
• [Local] Successes need to be recognized. Have landowners talk about what they did to get great habitat.
• [Federal] We need more examples of successes so people understand there can be a benefit to doing things proactively. Idaho’s reaction to sage-grouse was a setback.
• [State] Term-limited conservation easements seem like a possible incentive tool to consider.
• [Conservation] We need to identify what tools are available to landowners and publicize them. For example, the Idaho Conservation Center has a comprehensive online searchable website for different incentives available to private landowners.
• [Local] The sentiment behind the idea of conservation outside of the overarching rules and laws of ESA is admirable. However, the Act is what brings people to the table. Individual lessees out on the federal land aren’t going to react to conserve species early. And why would they? They can’t put two and two together to know if species are suffering.
• [Agriculture] Real incentives need to be rooted in conservation practices that are mutually beneficial. Productivity of the resource needs to be considered as well as conservation.

Transparency
• [Conservation] People need help understanding the benefits of certain conservation actions to them and the environment. We should look at the conservation value from these activities. Let people understand what benefit the action on their land is having and set it in the context of avoiding a listing. Show people why allowing constraint of activities on their land is a benefit. We need to establish a context for understanding what is being contributed to.
• [State] We need to help landowners view the presence of threatened and endangered species on their lands as an asset, not a liability. We need land to stay productive while also serving as habitat for species. There are a number of things being done in Idaho in that regard. For example, with salmon recovery a collaborative has been established to find positive solutions to restore stocks while ensuring the livestock production landscapes stay economically viable. We have been able to improve irrigation delivery systems to increase hay yields while adding water back to streams. Those folks up there saw what was coming at them in the early ‘90s with steelhead and chinook. They wanted homegrown solutions and they wanted an active role in restoring those iconic species.
• [Local] Stakeholders need confidence they will be listened to no matter what. A stakeholder with an idea might not even bring it up if they feel they won’t be considered. This comes back to understanding where everybody sits. People need to talk about what they’d like to see and their expected outcomes.
• [Industry] We need to use creative means of communication. The monarch butterfly is a good example. The more information you can get out in a public forum the better.
• [Industry] Transparency is essential prior to a listing.
• [Federal] People need to know the process for engagement. There need to be multiple opportunities for people to participate. Transparency and information is itself an incentive.
• [Conservation] We need assurances that the actions we are buying are meeting the conservation need.

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

Federal-State-Tribal-Local Consultation and Collaboration

• [Industry] Compensatory mitigation schemes can provide a pathway to economic analysis.
• [Conservation] There is a need for consistent mitigation policies between states and feds.
• [Conservation] If states want a larger role, they need to look at funding. States’ commitment to funding is all over the board. Not all states have same capacity to take on leadership roles.
• [Conservation] If states want to lead collaborative processes, they need to get statutory authority to regulate plants and invertebrates. Right now, most state wildlife agencies only have authority to manage fish and wildlife, not plants and insects.
• [Local] County Commissioners are slow to respond because they don’t have much authority beyond whatever the state and local responsibilities for county planning are. They don’t regulate fish and wildlife like feds and states. Yet, impacts are felt more acutely at the local level. With some notice, local governments can bring engagement to the table. They are engaged in all kinds of other conversations that have built trust relationships that can be tapped into.
• [Conservation] Historically, conservation efforts have suffered from a lack of local and state planning that gets stakeholders involved early. The greater sage-grouse process in Wyoming worked because the Governor drove involvement by all those involved on the landscape. This gubernatorial leadership forced a process that otherwise would have lagged. That got the Wyoming deal done before the listing process heated up. Gubernatorial leadership might not solve everything, but it helps jumpstart the process and gets past some of the trust issues that hamper many efforts.
• [Industry] The BLM cooperating agency process should really work. Counties and Tribes are elected officials and should be given adequate notification and more time than other special interests to absorb and respond. Their Input should be given more weight than form letters from across the country.
• [Industry] If there were a cooperating agency process that FWS had to do with counties and Tribes, they would have some responsibility to engage in collaboration before take petitions.
• [Tribal] The Tribe’s biggest issue is capacity. Eight counties touch the Tribe as well as six national forests. There are four biologists in the Tribe. Collaboration takes a lot of time and effort and it is hard to fill the need.
• [Tribal] Tribes don’t want to be married to anyone else, but will partner for common goals.
• [Tribal] Collaborative efforts on any one issue, such as the ESA, may also be dependent on cooperation on a lot of other issues that are more general in nature.
• [Industry] Providing funding should not be the criteria for whether states have a seat at the table. If feds want to use federal laws, there should be funds associated with it. Funding isn’t just a state responsibility.
• [Agriculture] Part of the reason you don’t have local and state government and stakeholder involvement is the sense that it won’t matter. Many are resigned to the fact that the feds will do what they want regardless of local and state input.
• [Agriculture] Economic impacts analysis may not be right for listing, but it matters to help motivate action before a listing decision and to help foster collaboration.
• [Agriculture] The problem with the ESA process is the clock. No portion of that limited clock is dedicated to collaboration. It is only designed to get information on the listing. If the ESA, at least for threatened species, had several years built in to provide collaboration on how to remove threats, it would provide opportunity while also keeping the motivation of the Act as a larger framework.
• [State] Management goals should be based on consistency of outcomes, not consistency of actions.

State & Local Science, Data and Expertise

• [Conservation] We need consistent processes across states, or at least within states. In a lot of collaborations, the variance in processes being relied upon can impact timing and outcomes.
• [Industry] Every state has access to a federally-chartered forum, the State Rural Development Council. That interagency process is intended to be used to come up with collaborative solutions on everybody’s concerns.
• [Academia] Many state and local governments currently lack infrastructure to do the planning process. The BLM will send out pre-notice two weeks ahead of an action. It’s an unrealistic timeframe for input from local government and probably states as well. The short response times feed the perception that feds don’t want input.

• [Academia] Utah did a survey of Western states in 2007, asking who they trust the most. Not surprisingly, they said ”themselves.” The key to improvement in this arena is reestablishment of trust on all sides.

• [Conservation] The FWS petition rulemaking would allow states to append state input to a petition. This will likely be a tool to get state involvement and science engaged early. It will certainly solve the early warning desired by states regarding possible listing proposals.

• [Federal] States need state wildlife action plans to get access to FWS funding. Funding and staffing at the state level can be strengthened so that they can truly be the conveners. We need to put more horsepower behind it.

• [State] Collaboration can fill gaps in funding, science and inventory assessments.

• [State] We need to involve locals in planning efforts. Recovery or ESA listing prevention stands the best chance with local input.

• [Federal] It’s very important to talk collaboration outside of the ESA. Most of what fish and wildlife agencies do is keep species out of trouble. State fish and wildlife agencies are the experts on species. However, many agencies don’t have funding to support that level of effort outside of fishing and hunting licenses. We need to figure out how to fund the more expansive list of species, not just those hunted and fished.

Stakeholders’ Role

• [Conservation] There is not currently a protocol on how stakeholders are managed, and there are examples of both great stakeholder engagement and disasters out there. From a human dimension perspective, we need to have a better understanding of what creates a good stakeholder engagement process and capitalize on that. That doesn’t always mean that the federal agencies are responsible for bringing all of these parties together, because sometimes they are stakeholders too.

• [Agriculture] We need NGO engagement that is enabled by funding from other sources. For example, collaboration could be led by an NGO instead of by agencies, but sustained by funds from the FWS and other entities.

• [Conservation] If a species comes up and is struggling, go out to the local groups earlier and say, ”We have a problem and we need your help to fix it.” What this does is maintain the overarching protection of the ESA while also getting local landscape considerations integrated in to the process earlier.

• [Agriculture] There is a culture of stewardship with farmers and ranchers. They do things to keep those species there on our ranch and our land. It is something that is a driver for the agriculture community. If we know there is a problem, the ESA helps to bring that to the forefront, but we need to have a stronger collaborative local buy-in process. We need to make ESA more bottom-up somehow by getting people involved earlier.

• [Industry] The problem with collaboration is a lack of trust. You can spend a lot of time on the effort and then have the guy at the top decide how it is going to go. If you are going to have the local level work on issues, their recommendations for outcomes need to be respected.

• [Academia] The mechanisms for stakeholders to provide input to federal agencies needs to match the sociology of the impacted communities and governments.

• [Conservation] One reason that groups sue is because nobody ever calls back. The ESA gives those who aren’t invited into collaboration a mechanism to get their point of view acknowledged. We need a process to get a conversation started. Lesser Prairie Chicken was petitioned in 1994. Nobody called the petitioners for a decade, until they sued. Some stakeholders question collaboration outside of the ESA, because they can’t figure out how to get into that process.

• [Industry] There is a question in the planning process regarding who should be part of the planning. It needs to be inclusive and get the perspective of those really impacted. Too often, so-called “collaborations” aren’t fully inclusive or balanced and they end up imploding.
• [Local] We must take time to value other partners and exhibit that in how these input processes are run. For example, Agencies need to consider the number of meetings held, where they are held and when they are held. We need to meet folks where they are.
• [Local] Trust goes both ways. Feds often aren’t any more trusting than local folks about true collaboration.
• [Agriculture] In the past, “collaborative” was seen as a bad word, but now it is shown as a good thing. However, if you are a collaborator and your collaboration isn’t effective, you become vulnerable in the community and elsewhere.
• [Local] We need to hold public meetings when people can attend. Federal agencies tend to have meetings during the day. Some people would like to have them at night so they can be there.
• [Agriculture] Once critical mass is achieved, local solution processes must have protection from litigation.
• [Agriculture] People support what they help create. Probably the biggest thing that we can do is bring people in and help foster collaboration and trust. You need to look at communities that will be impacted, but you don’t build trust in six months or a year. It takes time.

Theme: Landscape-Level Conservation and Ecosystem Management

Ecosystem Management
• [Conservation] Ecosystem planning is the key that is missing. If states were doing ecosystem-by-ecosystem planning, that would help them keep ahead of many listings. That is how states can best hold on to their primacy over wildlife management. Stepping in earlier to get ecosystems managed will help avoid the need to list.
• [Industry] The ESA fixes train wrecks, it doesn’t prevent them. It needs more explicit treatment of how to prevent the need for listing. That will often require a landscape and ecosystem-scale response. But once listed, the successful recovery of each species requires a response tailored to its unique biology and distribution.
• [Agriculture] Landscape-scale management will improve the process, if only to achieve consistency across all of the different land management boundaries.
• [Conservation] A multi-species landscape approach is fundamental to both proactive species conservation before the need of the ESA and also species recovery after listing. The trick is defining the scale, the baseline to start from, and then determining suite of species.
• [Conservation] Would integration of multi-species and landscape-scale strategies improve the efficacy of the ESA? Yes. By integrating those strategies while still employing more local and special actions, the overall outcomes can improve. Species do not exist in a vacuum and are affected by larger-scale issues. Specific action can be targeted but a coordinated large-scale strategy is important.
• [Agriculture] It is logical to think that single species management has empowered the litigation industry. A bigger picture look at our landscapes will eventually happen.
• [Agriculture] Landscape-level strategies are a good thing, depending on the scale. They must come together from on-the-ground science and multiple agency support. They need good coordination that’s not agency-led and is supported adequate funding. Recovery goals must be clear from the beginning. Upper Salmon Basin work on Chinook, bull trout, and greater sage-grouse is a good model for successful work for both listed species and prelisting efforts.
• [Industry] There are already landscape-scale and multi-species actions occurring under the ESA, like habitat conservation plans. Other programs or frameworks may provide a better mechanism to achieve the goal of precluding species listings, e.g. FLPMA, NFMA, NWPPA, etc.
• [State] The single-species approach with the ESA is already challenging. A multi-species approach, while preferable from a conservation and efficiency standpoint, would be too complex and burdensome to designed, and much more difficult to communicate to stakeholders.
• [State] Multi-species strategies are currently handled with state wildlife action plans. We don’t need another level of bureaucracy to complicate the system.
• [State] Multi-species management should not be within the confines of the ESA. It is difficult since the ESA is single-species oriented, but developing an ecosystem umbrella plan that informs proactive
conservation plans for species within that ecosystem may improve the process. It would be a great tool to preclude a listing if multiple species could be included.

• [State] Multi-species management will frustrate both listing and delisting. We need to use multi-species benefits to help prioritize recovery actions. We also need to look at multi species in the context of where an individual species action might provide multi-species benefit.

• [Conservation] Management goals of the stakeholders are equally as important as the biology of the species themselves. Do you want a landscape scale? Well, that depends on your policy goals and economic constraints.

• [State] We were doing a lot of this integration on local scales across the range of sage-grouse. We need to visualize how to get this done locally with all of those people in local working groups giving input. Then you can integrate into the larger scale to envision what this may look like at a larger range. We can’t seem to get this done with a single species covering a large landscape, and then if you try to add other species in for consideration we will blow the whole process up. It is not multiplicative, it is additive.

• [Conservation] Landscape-scale management could work as long as we define the size of landscape and the number of species. Too large of a landscape does not address the local needs of the species. Too many species being focused on may lead to desired outcomes for each species being at odds with each other.

• [Conservation] Landscape-level strategies are probably not the right mechanism to improve the efficacy of the ESA. It’s more the trigger to implement keeping species off of the ESA. The real crux is integration of federal, state to local government land use planning and conservation. Goals seem to be similar, but the implementation of goals is happening in a vacuum.

• [Anonymous] Integrating multi-species and landscape-scale strategies would not improve the efficiency of the ESA. This would complicate an already too complicated system and should be dealt with in other areas such as habitat plans, land use plans or other federal documents.

• [Anonymous] Management goals and decisions should be based on parts that are broken, not in entirety.

• [Conservation] The landscapes have to be healthy no matter what. Single species conservation without considering the landscape as a whole is completely ineffective. If we are talking multi-species management of listed species, then sometimes those can come within conflict of each other.

• [State] With multispecies conservation plans you are picking winners and losers. Essentially you are picking which species that you will focus on and which species you will not.

• [State] We could not support landscape scale. The devil is in the details. When you have a large landscape scale model, people take that and try to apply it on the ground which simply doesn’t work. It creates really large models that don’t equate to anything real on the ground. Landscape-level plans must first be ground-truthed.

• [Conservation] If you try to manage for every species in an ecosystem, they will at some point be at conflict with each other. It is a possibility as long as you are specific with the size of landscape that you are managing and the specific number of species you will be impacting.

• [Industry] Landscape or multispecies management is a good idea from a planning and analysis perspective but not from a regulatory perspective.

• [State] Ecoregions and clusters of species are how we are considering things on the prelisting side. I would have trouble supporting regulatory landscape scale approaches, but in terms of planning and conservation actions, it is already there and in use.

Adaptive Management Tools

• [Conservation] Regarding lack of funding, where would “new” funds come from? How can we afford conservation and the extensive planning needed for collaborative action to work?

• [Conservation] It is clear that American consumers are not paying for the true cost of natural resources. Subsidies and other cost savings programs undermine generation of revenue to offset resource impairment.

• [Industry] Multi-species and landscape-scale strategies can improve planning and analysis of pre-listing actions like management plans, safe harbor agreements and even listing decisions. However, it won’t improve the regulatory effectiveness of the ESA. It will only cloud the issue because of complexities inherent in multi-species habitats and interactions.

• [Agriculture] To have a successful landscape-scale approach there must be an agreed upon outcome with the necessary flexibility at the local level to tailor the measures to achieve that outcome.
Stakeholders' Role

- [Industry] You have to have the right players in the room when talking about proactive measures. If we have one major landowner and no peripheral landowners, it won’t matter what we do, especially when it comes to large habitats. Without large landowners and operators involved, nothing proactive is going to happen. Maybe one landowner has all the winter habitat and another has summer -- without both of those people the process isn’t productive.
- [General Public] There are already other mechanisms in place for landscape-level conservation like Habitat Conservation Plans. The problem is that there is not much stakeholder integration in the planning and pre-planning stages before or during listings. The ESA is not the right mechanism for landscape scale or multispecies conservation. It would be too complicated and inefficient.
- [Industry] The solution to any endangered species management problem, including the species addressed and the spatial scope of the solution, depends on the needs of the species and composition of the stakeholder community.
- [Conservation] There is already a mechanism in place for multispecies and landscape scale management with habitat planning tools. Maybe it is a matter of integrating it. Habitat Conservation Planning Process is one way to look at endangered ecosystems and account for habitat needs across a broad range of species. Maybe the weak link is the integration between the two.
- [Conservation] BLM and USFS don’t necessarily plan and integrate plans together, and they often aren’t even at the table at the county level. If we get to the concept of ecosystem planning, you need to have all the stakeholders at the table. So far we have done a terrible job.

Theme: Investment in Science and Measurable Outcomes

Best Available Science

- [Conservation] We need to create science as opposed to case studies. One of the problems with relying on best available science is that, in most cases, we can’t predict with any accuracy the outcomes of specific conservation actions.
- [Local] Stakeholder engagement is important, but everybody wants science-based outcomes. At the end of the day, the common thread through all of this is transparency. To be successful, collaborative processes must be transparent and accessible. If that occurs, stakeholders will be more likely to accept the science. If it is lacking transparency, the science will be viewed with suspicion.
- [Industry] Funding doesn’t solve all things. When it comes to science, it’s important to set criteria on what constitutes independence. “Group science think” is a real problem.

Uncertainty and Risk

- [Conservation] The inflexibility of the process is a disincentive. If it turns out there’s a bad consequence you’re still bound to the agreement.
- [Conservation] There need to be assurances that adaptive management opportunities are in play, otherwise the incentive process can be too inflexible. Timber and spotted owl, for example, led to some severe unintended consequences.
- [Conservation] We need to know that the science isn’t going to be frozen in time and that people can adapt and address the consequences of management actions. We need to manage adaptively.
- [Industry] In our oil and gas experience, adaptive management has only ever worked one way. It’s never a two-way street. It becomes more restrictive, not less. There is a valid way to go about it that recognizes that it should shift both ways.
- [State] We need to define adaptive management up front. Adaptive management is a necessary part of this. We have to remind clients that you don’t get to just do one thing and walk away and say you’re done.
- [Conservation] There needs to be ongoing communication in order to adapt. As conditions are changing, there should be a way to adjust your agreement and people should see these planning efforts.
- [State] We don’t need to be focused on consistency in action, but rather consistency in outcome. When you stay away from actions and work on consistency of outcomes, you give local people the ability to adapt to a variety of biological and physical features present within a landscape.
**Stakeholders’ Role**

- [Conservation] Local knowledge is key. It should be respected and incorporated into the solution.
- [Industry] Local knowledge should be the baseline.
- [Conservation] A lot of conservation conversations occur outside of the ESA, like wildfire management. We don’t have to start from scratch. Quality data gets pulled in from other processes.

**State & Local Science, Data and Expertise**

- [Conservation] A lot of late science in the greater sage-grouse context had to do with budgeting. Late money came to the U.S. Geological Survey (USGS), so the agency couldn’t get started early. Science takes time.
- [Conservation] States want to have collaboration, but often aren’t willing to share the data. Data needs to be shared.
- [State] There is a common goal sometimes, but improving consistency can actually limit effectiveness of on-the-ground implementation and can take power away from the local people actually enacting these management policies.

**Theme: Listing, Recovery, and Delisting Process of ESA**

**Listing**

- [Conservation] There should be early warning and a watch list for species to note species threats early.
- [Industry] Economic analysis provides important information but may not be helpful during the listing process unless timelines for listing are adjusted or it is required in the listing petition.
- [Industry] When considering listing species, an economic analysis of the effect of the listing on the economic and cultural fabric of the local communities needs to take place. The cumulative impacts need to be addressed along with the ability of the community to adapt to the proposed listing both on an economic and social level.
- [Industry] The goal of the ESA is to not have any listed species. Historically speaking, the Act has been something of a carrot and stick exercise. We need to talk about reconfiguring the ESA to how we can get species considered earlier in the process and preclude the listing of species through increased early voluntary conservation efforts.
- [State] Economic analysis should be done by all interested parties prior to listing.

**Recovery and Delisting**

- [Agriculture] Recovery and delisting don’t work well within the ESA.
- Industry] Recovery plans should focus on the ecosystem. There is no need for species listing other than the ecosystem
- [Conservation] Are there ways to include feasibility in ranking or prioritizing recovery plans? The process does not seem clear.

**Critical Habitat**

- [State] Critical habitat designations should occur, if at all, with the recovery planning, not before.
- [Conservation] We need to recognize that the definition of “critical habitat” is not limited to habitat occupied at the time of listing. The second half of that definition includes habitat unoccupied but considered essential for the conservation of the species.
- [State] The designation of critical habitat definitely needs an economic analysis aspect, as do recovery plans and efforts.
- [State] Designation of critical habitat should award players within the critical habitat designation, not limit or restrict them. Economic incentives need to keep players “doing the right thing.”

**Funding and Agency Capacity**

- [Industry] Species have been going extinct long before human beings were created. We need to recognize that we can’t save all species or recover all species. Economic analyses need to include a cost/benefit to recovering certain species and allow a decision to not implement a recovery plan because cost is too great or risk of recovery is too high.

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Timelines

- [State] We need a timeline established in the ESA for recovery plans. Some species listed now do not have one.
- [Industry] Timing is always a problem. Most companies want to engage, but the challenge is that if you develop conservation plans you have to go through NEPA, which takes anywhere from 2-10 years. Industry is more than willing to engage in conservation actions, there’s just simply not enough time. There are too many constraints from timing of the act to implement action prior to listing. Most companies don’t see the value because they will have made a decision already.
- [Local] We need to keep the end in mind and use a projected timeline. A lot of these efforts go for years and years with very little results. Stakeholders need to understand that this is going to take time or that there’s going to be a decision made at some point.
- [Industry] Mandatory timelines are the majority of the reason we’re in this pickle.
- [Conservation] Timelines can be opposed. Alternatively, if they don’t exist, nothing ever gets done.

Theme: Law and Policy Recommendations

Regulatory Efficacy

- [Industry] We need to look at regulatory processes through a broader lens. There are many places within ESA where the approach is too specific and could be broadened.
- [Agriculture] We need some insulation from the burden of the federal nexus. Maybe you’re putting together a plan for one species, but it just so happens that another species is already under consideration or is under protection. Conflicting federal policies can be a problem.

Conflict and Litigation

- [Industry] We need to extend the 90-day and one-year timelines in responding to petitions to list. Current timelines might have been reasonable in 1973, but they are unrealistic today.
- [Industry] We need to eliminate citizens’ right to petition to list and right to sue under the ESA. Petition to list should be limited to FWS and state and local governments.

Workshop Roundtable Appendix

Denver, Colorado

This Appendix collects paraphrased viewpoints captured during roundtable panel discussions and breakout sessions at the Denver, Colorado workshop of the Western Governors’ Species Conservation and Endangered Species Act Initiative held on March 9-10, 2016. The Appendix is organized by the six overarching initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector of stakeholder whose viewpoint is presented.

Theme: Incentivizing Proactive Voluntary Conservation

Assurances

- [Conservation] There is a lot that we can do on a proactive and voluntary basis to ensure that species stay off the Endangered Species List. We firmly believe in locally driven solutions to maintain state management of species, but there needs to be a regulatory floor in these planning processes so we don’t scramble in the end to satisfy legal constructs. We need regulatory certainty.
- [Agriculture] Candidate Conservation Agreements with Assurances (CCAs) provide a lot of benefit. We saw that with the lesser prairie chicken in that range-wide plan. They provide durability to prelisting conservation efforts and provide the certainties ranchers need to plan. The ability to have that regulatory certainty to operation is critical. But that certainty has to come with guarantees that when they commit to certain practices to curtail their activities or enhance that habitat, those efforts will be met with good faith.
• [Conservation] CCAAs and other assurances are too complicated. The Natural Resources Conservation Service (NRCS) does a good job of getting ahead of listing problems and getting money into people’s hands to do things, but it’s still too complicated. Cut the cost and hassle factor.

Conflict and Litigation
• [Conservation] The Endangered Species Act (ESA) causes people to shut down, step away and dig their heels in. That is unfortunate because this doesn’t have to be the case. There are things we can do proactively to avoid listing.

Monitoring and Early Action
• [Sportsmen] We have data. We know that avoidance is better than mitigation, so let’s look at places we can avoid problems and start at things as a landscape instead of at the unit-by-unit level. Western culture is to create home-grown solutions. Let’s think about things more holistically.

Incentives vs. Regulatory Hammer
• [Conservation] Incentives are needed for landowners to go above and beyond the regulatory floor. We also need to ensure that agencies are funded so that they can do their job effectively.
• [Industry] Farmers and ranchers possess a culture of stewardship, but they need cost-sharing and technical assistance in efforts.
• [Industry] Compensatory mitigation is a good mechanism to bring industry into funding these expansive landscape-level initiatives. Effective implementation and organization are also critical to getting industry involved.
• [Conservation] A common currency is needed. If you talk about acreage protected, or miles of stream restored – those measures mean different things to different people. One way to handled that is through a measure called “potential functional acres”: the value of an acre for a species or group of species. This is embedded in various habitat exchanges. Potential is the value a species might find because species might move occupancy and might need habitat later. If you only incentivize landowners who have the critter today, you miss an opportunity to create a friend for wildlife elsewhere.
• [Agriculture] We need diverse funding streams and programs from business perspectives. Not all groups participate in the same programs. They want options.
• [Agriculture] Revenue sources need to work across diverse land ownership patterns. Business operates across many types of lands and unless we’re able to associate the investment across those landscapes it will be difficult to get adequate safe harbor involvement.
• [Agriculture] Funding needs to have value to funders. Value comes from things associated with species and habitat and also by assurances offered to funders. What do they get in return? It needs to mean something to them and to public perception as well. The public needs to understand those investments and that they have broad support. The value of those investments needs a nexus at some level and regulatory compliance.
• [Agriculture] Every dollar invested must have an outcome for the habitat, species, or the environment of concern. Dollars have to count. What can’t be measured can’t be reported. Net positives in general isn’t adequate in funders’ eyes, society’s eyes, or in courts anymore.
• [Conservation] It’s important to note that private funding has gone an enormous way for endangered species and conservation throughout the country. Private matching funds are incredibly important. Somebody should tally ranchers’ contributions. However, corporate and private fund dollars have been lacking with notable exceptions.
• [Conservation] Conservation organizations, landowners and agencies haven’t quite gotten to the corporate or philanthropic dollars needed to do this. Government dollars are shrinking and needs are increasing. We can’t go back to same state and federal pots, so that puts us going toward corporate and private funds.
• [Conservation] We need to work with business models and make something they can take on as part of their business and not just as a philanthropic request.
• [Conservation] On the philanthropic side, there’s an enormous amount of wealth and interest in conservation and we haven’t done a good job of putting this out there in a way that makes it easy for
them to participate. We need to collectively look at ways to do this. We need to go out to foundations and say, “What can we do to make this clear why it's a good investment for your foundation?” Otherwise we're leaving a lot of opportunity on the table.

- [Conservation] The best way of placing a dollar value on a quantifiable credit is market-based mechanisms. It is easier said than done, but this plays out in mitigation markets where if there's demand and you quantify that, the market then decides how to set value. If you precisely quantify the value of an acre for species and if there is demand for that conservation, the market allocates the price. Market techniques to allocate dollar values for conservation are best. The more valuable a property from a wildlife perspective, the higher the dollar value for that property in a functioning marketplace.
- [Agriculture] If we're buying land in the name of conservation, there's a more efficient way to do that than fee title acquisition. There is a better way to spread those dollars.
- [Industry] Measuring the value of conservation efforts should be in terms of what it's bringing to species, not in terms of species numbers. Is it providing a workable solution for resource users and allowing business to go on as we need them to?
- [Conservation] We need to do a better job of crediting. Registering credits for species nowhere near listing is important as a market signal.
- [Agriculture] You have to be able to measure and report consistently and in an outcome-based way. It’s not about fitting the funding and programs in one box, but rather about fitting the measurement into one box.
- [Agriculture] We recognize NRCS has done a great job of providing financial and technical assistance on private lands. We haven't seen as much on public lands and in part that's due to not having a multi-year plan specifically for public lands. In the future the Bureau of Land Management (BLM) will have to budget for voluntary incentives on public land, and industry needs to play a part in that as well.

Theme: Role of State and Local Governments in Species Conservation and the ESA

Federal-State-Local Consultation and Collaboration

- [State] For a state agency, a listing changes the playing field when we have been working with local government and landowners on a conservation plan. Even if the program is working well, the state role becomes diminished and it becomes the responsibility of FWS.
- [State] States must be in concert with local partners, so that transparency continues. Transparency of data, efforts, and plans to keep species common is essential. Not only is it the right thing to do, but it also provides regulatory certainty that those partnerships would continue under a listing.
- [Local] The Colorado State Legislature recently passed a bill requiring that the state provide grant money to local communities to implement local land use plans and work more collaboratively with state and federal agencies.
- [Local] State legislatures can dig deep to see how our systems work together internally so we can truly put our best foot forward. This is an alternative to the narrative that the states can take back management of federal land. We can come together, work out our differences and do a better job together.
- [Local] Local government has the ability to regulate on public land and, when done in a fashion that works with local landowners, it really moves the needle on species conservation.
- [Local] In Gunnison County, 90% of private land has some type of conservation easement, conservation agreement or is enrolled in some type of agreement with assurance program. These outcomes are fostered through relationships. When you cultivate relationships over time, the focus moves away from perceived heavy-handed regulation and toward a culture of stewardship where landowners and industry are invited to be part of a solution. When communities are willing to sit down with neighbors, recreation and industry and be the broker of these conservations, big changes happen on the landscape.
- [Local] With the listing of the Gunnison sage-grouse, some people want the narrative to be that the community worked hard to avoid the listing, the listing came down, and now no one is interested in conservation anymore. That couldn’t be further from the truth. What we are seeing is far more nuanced. The community has really embraced the challenge of recovering this species. There is a lack of faith with
the FWS that we will ever push to the finish line and delist the species, but the community is still completely on board with the effort.

• [Industry] ESA Section 6 authorizes FWS to enter into a cooperative agreement with the states. These are important provisions. There are opportunities to strengthen that role. For example, we could have a 12 month timeline for listing if current timelines are unworkable, which many timelines are.

• [Industry] We need to push for broad interpretation of ESA Section 6 and what is allowed for state and local roles. This does not mean a weaker FWS. This means stronger state and local roles. Just as we see with the Clean Water Act and Clean Air Act, there are very important roles for both the state and the Environmental Protection Agency (EPA). We need to give states a more formal role and delegate responsibility for administration of the ESA.

• [Industry] The benefits of a strong federal, state and local commitment are an equitable balance of interests, a focus shifted from listing to recovery, increased funding for conservation and recovery, increased local interest, increased accountability, greater faith in the process, and decreased litigation.

• [Academia] The most important long-term step is empowering states to implement state wildlife action plans and engaging in conservation planning on an ecosystem basis. This requires money, closer partnerships with private landowners, and partnerships between business owners and the states.

• [Academia] State laws are less focused on being a counterpart to federal ESA and more focused on outlining general authorities that provide states with conservation mandates for declining, but not imperiled, species. States need a federal ESA because it’s a great motivator for stakeholders to engage in conservation plans and common sense solutions. Voluntary conservation efforts require some kind of threat to keep people at the table and negotiating in good faith. At the same time, the federal ESA needs states in order to be successful. The most common risk factor and source of endangerment for species is habitat modification and destruction. Generally, the states are in charge of those. Without state authority for land use and control, it’s unrealistic that the Services can do their jobs.

• [Academia] In the West, states are significant landowners, but only six states have anything close to ESA Section 7 consultation. Because habitat modification is the most significant cause of species imperilment, the most significant aspect is the prohibition on harm which can include incidental take. To prevent species declines to the point at which they cross the threshold of imperilment, states have to have the authority and capacity to do more.

• [Industry] States need to be further empowered. If we can cooperate, a stronger state focus on species will be something acceptable to all parties.

• [Local] Colorado is unique in that it is 85% urban and has very few rural state representatives. Even less from western Colorado. It is hard to get attention and it can be difficult to get the thought process to shift on some issues. Lately, rural counties have started to build coalitions and work together with state and federal agencies. There has been a real evolution.

• [Federal] State fish and wildlife agencies are a special partner to the FWS, not just another stakeholder. They are the agencies that have management authority for species of plants, fish and wildlife before they are considered for protection under the ESA.

• [Local] We often see discussions and conservation work flow well between local communities and state agencies, but there is still work needed to transmit that process up to the federal level.

• [State] From a state agency perspective, we were concerned that the listing of the Gunnison sage-grouse would damage our credibility with landowners. We thought that, following the listing of the Gunnison sage-grouse, the conversation with local stakeholders could turn to, “well you’re not the one making the decisions so why should we talk to you?” This was not the case. The local governments are willing to partner, and we’re not going to leave them behind. That’s why they’ll continue to work on conservation in the future.

• [Local] FWS has a great opportunity to formalize consultation with local government. When communities know what they need to do, they’ll get it done. We have some great examples of collaborative efforts. How does that become institutionalized? Finding a way to make them the norm is essential going forward.

• [Academia] A review of ESA Section 4d Rules showed the most common tool promoting collaborative conservation are rules that involve some practice-based permission or restriction.
• [State] Funding is a major issue with non-hunted and non-fished species. We continue to use money from hunting and fishing licenses to manage all species. However, the continuously growing number of species being petitioned and listed creates serious resource constraints at the state level.

State & Local Science, Data and Expertise
• [Local] Following the not-warranted decision for the greater sage-grouse, the BLM essentially established an administrative listing on public lands. The BLM published a map of habitat areas for the bird in our county, and local experts knew that these maps were not correct. Communities expressed this to BLM but were turned away. That led to the decision to hire a consultant to map sage-grouse habitat in our county. The county used a more precise grid in the map and came back with 88,000 acres of habitat compared to the 220,000 acres used in the BLM map.
• [State] The state is statutorily restricted from releasing data to the public. Withholding data on private land is essential to state law and to continued partnership with local stakeholders. Sage-grouse may have been many landowners’ first experience in dealing with a potentially listed species, and that means there is one shot at keeping their trust and maintaining the state’s credibility.
• [Local] Local data on sage-grouse habitat in our county is more accurate than the BLM’s and has been peer-reviewed twice. Also, local folks noticed that habitat fragmentation was not posing a major threat to the bird. BLM did not listen to the recommendations and it seemed that a lawsuit was the only option. Legislation empowering local solutions coming from the state legislature changed everything. Now, instead of a lawsuit we have a Memorandum of Understanding (MOU) with Colorado Parks and Wildlife to map habitat. We also have a commitment from the BLM that they will accept that map and amend their environmental impact statement (EIS).

Stakeholders’ Role
• [Local] There is a frustration in many western communities whose land is composed primarily of federal land. People often feel that they don’t control their own destiny. The BLM and USFS tend to do analyses on a large regional basis and don’t focus on unique local differences.
• [Conservation] Many westerners live and work in small communities. Local community members often have differences of opinion on how to reach a solution, but when those opinions are articulated, everyone gains perspective on other points of view. This benefit of collaboration and conversation is largely lost in conversations around the ESA.

Theme: Landscape-Level Conservation and Ecosystem Management

Ecosystems Management
• [State] We can’t continue a species-by-species approach to management. Landscape-level approaches are the future of conservation and we need to fully consider the working landscapes out there as well – these folks can’t be left behind.
• [State] The petition process forces us to rush to look at a single species. However, there are generally multiple species that may be in trouble in the same habitat. The sage-grouse effort has led us to look at the sagebrush ecosystem as a whole. The problem is that the FWS has a set timeline to respond and this doesn’t allow us to look at ecosystems unless we get proactive.
• [State] Landscape-level planning is not just about wildlife. The ability to plan at the county level would inform a lot of habitat-based management plans. Water plans and countless other resource management plans need to come into play in these discussions.
• [Federal] The conservation community recognizes the landscape-scale approach is the most intelligent way to process but it’s not always easy to reconcile that with the species-specific approach of ESA. Landscape-scale regional Habitat Conservation Plans (HCPs) developed in the last 20 years are the best laboratories to see how to implement landscape-level conservation techniques, but they do not come without challenges. We still need to look at the needs of individual species, many of which are narrow endemics. Overall ecosystem function may not address a specific threat to a narrow endemic species. We can do it, but no one should think it’s a simple task. It takes time and energy. There’s a significant level of risk tolerance that has to be part of the overall solution as well.
**Adaptive Management Tools**

- **[State]** There is a lot that we can do proactively with funding and the right partnerships. HCPs present an opportunity to expand landscape-level conservation opportunities. It is a tool that is gaining acceptance.
- **[Sportsmen]** Key areas to look at as opportunities to improve landscape-level conservation efforts include active habitat management to address emerging needs and taking advantage of new science that comes along and implementing it without restrictions.
- **[Industry]** Funding is always an issue. Sage-grouse benefitted a great deal from NRCS. For widespread replication of the Sage-Grouse Initiative (SGI) there will need to be funding from NRCS, BLM and industry. Compensatory mitigation is a good mechanism to bring industry into funding these initiatives.

**Stakeholders’ Role**

- **[Sportsmen]** Landscape-level conservation is the path to follow. It needs to involve a multitude of stakeholders. Two drawbacks that need to be addressed are the time that it takes to pull these efforts together and the resources required for them to succeed.
- **[Industry]** The outcome on sage-grouse can be replicated for other species and habitats. The SGI’s secret to success was a landscape-level plan with conservation practices well accepted by landowners and ranchers. SGI had a plan. They identified critical practices, critical habitat and a time table. They were able to take all of that to FWS and vet it to ensure that this plan would get the species to where it needed to be.

**Conflict and Litigation**

- **[Agriculture]** Can you really have landscape-level planning without some acceptance that a natural ecosystem is going to have to winners and losers and not all species are necessarily going to thrive? Can you do that and still plan on a large scale like that?
- **[Federal]** If the standard we have is to minimize risk for all species, that’s going to be difficult to accomplish. It’s a complicated world, and this information exceeds our ability to process. We have to do our best to not purposefully let a species go by the wayside. “Save the species” is the basic concept, but we may not be able to optimize management of all species in the mix.

**Theme: Investment in Science and Measurable Outcomes**

**Best Available Science**

- **[Agriculture]** You certainly have to have a feedback mechanism like adaptive management to determine if what we’re doing is correct. The problem is that we’re so risk averse. We need to recognize that no one’s science is perfect, but we do need that feedback to ensure our best attempt at formulating outcome-based science is truly outcome-based. We never get it right the first time, but we get better through time. We need to rely on the scientific community to provide us with information to develop effective conservation measures.

**Uncertainty and Risk**

- **[State]** Research is often the first thing to get cut with shrinking budgets. We have to find a way to continue to fund research as data and science are often at the heart of litigation.

**Stakeholders’ Role**

- **[Industry]** There’s a lot of data acquired on wildlife. Many industries are required to do wildlife surveys, from single species to multi-species that can be complex and expensive. We’re not the only ones collecting it; conservation groups and state game and fish agencies also collect data. How do we take all of that data and make it usable?
- **[Industry]** There’s a lot of data and different private entities have it. All of this data is sitting there not doing anybody any good. Let people know they can send their data somewhere to compile and put in a usable format for other entities.
State & Local Science and Measurable Outcomes

- [Industry] Wyoming is doing it right. The Wyoming Natural Diversity Database (WYNDD) housed at the University of Wyoming makes an effort to acquire and consolidate data and has been extremely beneficial to response to petitions and status reviews. Having the best, current science in place makes states well positioned. WYNDD is funded through state legislation and federal grant money. Each state needs to house this information.

Theme: Listing, Recovery and Delisting Process of the ESA

Listing

- [Industry] Focus has shifted from recovery. Agencies are trying to keep up with listings when what we want to see is recovery of species.
- [Conservation] When a species is petitioned for listing, states are the primary managers of that species. If you are talking about listing a species under state management, does that not mean that the state has failed to effectively manage the species?
- [Conservation] The ESA says that you can list a full species, sub-species, or distinct population segments of a vertebrate. Pay attention to which of these categories a listing takes place in. If you list wolves or grizzlies at the species level throughout their range in the lower 48 you'll have difficulty dividing that up into distinct population segments for delisting purposes.
- [Conservation] The Act provides two classifications which have been lost. “Threatened” and “endangered” are supposed to be two different things. One means endangered now and one means likely to become endangered in the foreseeable future. Some protections apply to both species, but the direct statute text only allows take of threatened species. We see this as problematic as ESA 4(d) rules promulgated by the Services allow take on threatened species despite the fact that some of these species likely should have been listed as endangered in the first place.
- [Conservation] Generally when political officials from around the country come to our community, they are looking to find who is at fault for an issue. It is no one's fault. It is a collection of simple miscalculations that have occurred over the years, but there are future opportunities.

Recovery and Delisting

- [Conservation] It’s a two-step dance. The first step is preventing extinction, and we do a good job at that. The second is to recover the species. We’ve got some work to do there.
- [Academia] The big problem with ESA Section 9 is that it is threshold-based. It asks, "Is the result of this activity a harm?" How do we measure that? In contrast, in pollution control we use a “best available technology,” threshold, which means that if you’re doing the best you can, we say you’re doing a good enough job. That means that we are not going to measure outcomes, but rather permit activities based on the way the activity is conducted.

Critical Habitat

- [Sportsmen] It is worth looking at the definition and interpretation of "a significant portion of the range" versus the entire range. If a species is threatened across the entire range but endangered in a portion of range, what does that actually mean in terms of habitat protection?

Funding and Agency Capacity

- [Conservation] We need more people in agencies. They’re trying to respond to 21st century problems with too few people. We need a deeper talent pool, and a younger talent pool. Environmental science and conservation are popular majors and we need an on-ramp for that talent.
- [Agriculture] There quite possibly are adequate dollars available for species conservation and management, but they’re inadequately allocated. This encapsulates litigation and management hours.

Timelines
• [Federal] The ESA is built to be risk-averse. Decisions need to be made in a timely fashion. The timelines required in the law combined with an inherent level of risk-aversion are difficult to reconcile with bringing together communities who don’t have experience within the Act. This is what in many cases creates a disconnect between what the law requires and what we all want to accomplish, which is effective conservation of species that is locally supported and incentive based.

• [Sportsmen] The process wasn’t broken for the Gunnison sage-grouse. It was working as it should have. We need to continue working with DOI agencies to establish upfront vision and enough flexibility to enable that local process to succeed. Inflexibility around deadlines stunted what would have led to a more robust process and different outcome.

• [Conservation] Delay matters. If we had worked on the prairie chicken listing earlier, it would have been easier. We had 60,000 birds in 1998 when FWS ruled the prairie chicken “warranted but precluded.” They listed the bird in 2014, and there were 34,000 left. There is no higher trigger than “warranted but precluded.” They said it in 1998, but nothing happened until we set a deadline. Timelines are uncomfortable but necessary. Whether you agree or not with the result, at least somebody made a decision.

• [Academia] Part of why we find ourselves in today’s situation is because of very low funding for recovery. We’re also torn between deadline-driven and biologically-driven imperatives while doing comparatively little to prevent the trickling down of declining species into imperiled status.

Theme: Law and Policy Recommendations

Regulatory Efficacy
• [Federal] The FWS’ overarching goal is to make the ESA more effective for imperiled species, but also to make administration of the Act clearer and more consistent and less administratively burdensome.

• [Industry] We need to have the courage to ask Congress to amend ESA to strengthen Section 6 and take another look at Section 4 of the ESA.

Conflict and Litigation
• [Federal] Multi-species settlement agreements create a more predictable and less litigious environment for the FWS under the ESA.

• [Local] The litigious environment that we are in has to be addressed at some point. The Gunnison sage-grouse was ruled not warranted in 2006. If the communities’ sole goal was to dodge a listing, efforts would have stopped after 2006. The community really came on board and said, “We are responsible for this species.” In order for these efforts to continue, the litigation and the pressure of unrealistic timeframes have to change. Collaboration can only go so far in the face litigation.

• [Industry] It is hard to get stakeholders to engage in good faith efforts if they will not be afforded regulatory certainty. If you derail efforts with litigation, it doesn’t build the trust and goodwill necessary to keep stakeholders involved.

• [Local] Timelines tied to litigation forced us to a point where we didn’t end up short of meeting conservation goals, we ran out of time. That piece needs to be recognized. Communities are committed to the work. Our hope is that, despite current litigation and next steps in the conservation process for the Gunnison sage-grouse, we don’t diminish the desire for the local community to be committed to conservation of the bird.

• [State] States are finding themselves embroiled in litigation. It’s part of the game now. For a state to have attorneys engaged in ESA litigation, that’s something that wasn’t been done in the past. The ability to find the funding sources to deal with litigation, help out landowners, etc., is all under one umbrella.

• [Industry] It’s unfortunate that the agriculture community can’t respond in kind on litigation brought by environmental groups and push back, but litigation costs money and you don’t want to be in courts. That’s an imbalance that’s been a key driver in ESA.
Workshop Breakout Appendix
Denver, Colorado

This Appendix collects paraphrased viewpoints captured during Breakout Session discussions at the Denver, Colorado, workshop of the Western Governors’ Species Conservation and Endangered Species Act Initiative held on March 9-10, 2016. The Work Session Appendix is organized by the six overarching initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector of stakeholder whose viewpoint is presented.

Theme: Incentivizing Proactive Voluntary Conservation

Assurances
• [State] Not all voluntary incentive programs are equal as there are some that come with regulatory assurances and some that do not. Yet they are often grouped under the same category. A key question: how are those voluntary programs that don’t provide assurances looked upon by FWS when they need to make a listing decision, and how will they be considered in the future?
• [State] Some programs can only be five years long, but they may still provide the same benefits as a long-term tool like easements.
• [Industry] Companies that operate in a variety of land ownership types don’t get the Candidate Conservation Agreements with Assurances (CCAs) on federal land. Early proactive efforts would be easier to implement if there was a mechanism for assurances earlier on federal land.
• [Conservation] If you look at reintroduction of black-footed ferret, those landowners willing to have ferrets reintroduced on their land are covered by assurances, but those ferrets will not likely stay only on that land. What happens when the ferret moves to a neighbor’s property? Are they covered as well?
• [Agriculture] Conservation measures need to be outcome-based. If you can’t measure it and document it then what is the point? If you aren’t documenting success then when it comes time for FWS to discuss the Policy for the Evaluation of Conservation Efforts (PECE) and evaluate success you risk losing all of that good work.

Conflict and Litigation
• [Water] Some goals may not be achievable. At some level there needs to be a process to recognize that we have reached the ceiling on an action. If you hit a certain level of progress and the data is telling you that you will never move past that point, then goals must be adaptable to the realities of what is achievable.
• [Industry] There are basic principles that we need to keep in mind when designing conservation programs. Anything that is complex, difficult or hard to understand is only distancing partners further and creating barriers for those that want to get involved.

Monitoring and Early Action
• [Sportsmen] Economics are the crux of the issue. People thinking quarterly can lose sight of long-term investments. Conservation has to be an investment over the long haul, not an impediment. We need to really look at how to get everybody to the table years in advance of a conservation problem.
• [Conservation] If we look at the West as one big ranch, you should be reinvesting in the land. You have to look after the ranch. You shouldn’t put all of the money into a general fund. Get aggressive about looking after your landscape. We reserve our anger for agencies that are so stripped down that they have no ability to respond. We need to figure out how we collaborate on using available resources to achieve the protections we all need.
• [Conservation] The goal should be to avert listings. We need better systems to identify the topics of discussion early on. State Wildlife Action Plans identify species that are imperiled, but you often don’t see meaningful action on those species early enough. Petitioning seems to be the only way to start this process at times.

Incentives vs. Regulatory Hammer

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• [Conservation] We need to be selective in the application of incentive programs. It doesn’t seem likely that we necessarily need to incentivize every species that has or will be listed. Identifying which species to consider for incentives based on a variety of factors is an important first step.
• [Federal] Look at what makes programs successful and evaluate how to make them even more successful and transferable. The Sage-Grouse Initiative (SGI) is protecting more than just sage-grouse; it is protecting many other obligate species. This needs to be recognized and valued.
• [Agriculture] The narrative around incentives for conservation is how to get landowners to care about conservation of wildlife. More often than not, landowners would like to implement practices but they need compensation for the implementation costs, not incentives. More cost-sharing programs are needed.
• [Conservation] We need to work to change the paradigm around conservation. Instead of paying landowners for damages to livestock from large carnivores, you pay them for maintaining those carnivores on their land and paying for measures to prevent damage. It is a matter of perception.
• [Federal] Incentive-based proactive conservation depends on ranchers staying in business. We need to make programs that work with the economic realities that farmers and ranchers face. Once we are comfortable with that, then you can start tweaking programs for specific species and landscapes.
• [Federal] We are a crisis-driven society and everybody has limited resources. What happens when you start looking into innovative conservation practices and rather than tweaking them to make them work better people just set them aside and say these aren’t working? Getting people to stick with things is difficult because there are too many other crises to occupy their time.
• [Federal] Agencies have $100 to work with but $150 worth of work to do. We need to empower those making decisions to spend a dollar today to save $50 years down the line. It is a long-term investment, but it can seem tough to justify to those scraping by.
• [Forestry] Sportsmen’s groups, agriculture, industry, NGOs, etc., generally take on a lot of financial responsibility when it comes to funding species conservation efforts. We need a way to spread the financial burden out amongst more of the general public that also values these species and ecosystems.
• [Conservation] There have been examples of conservation programs being invalidated by new information. You get a few years into the program and the science and technical experts who review the program say that what you are doing is not really addressing the threats. There is no flexibility to adapt to that. You already have a plan and funding, so you just have to keep going with the original plan. We need flexibility to change course with new information coming out.
• [Conservation] Every landowner is different, and you can’t be too rigid when it comes to program implementation. SGI and SGI 2.0 are working. The NRCS is providing monitoring, tracking and reporting that is essential on the government end, but also providing flexibility for landowners.
• [Agriculture] It all comes down to tools in the toolbox. You need to have criteria and program goals well defined, but not necessarily dictate how landowners achieve those goals.
• [Agriculture] There needs to be the ability to measure conservation investment. FWS can’t look at voluntary conservation in a qualitative way. Flexibility of implementation is essential to for getting landowners involved. Identify ingredients for success and allow them to be accessed through multiple channels.
• [Agriculture] Institutions and organizations matter. There are things that work and things that don’t work. For example, one could contend that roughly 20-50% of conservation districts actually work as intended. Yet they are the fulcrum of funding and conservation support on the ground. We need to identify what programs are working and reward them with funding. When something isn’t working, you need a process to allow stakeholders to have a say and direct funding towards programs that they find are working.
• [Federal] We don’t need to keep reinventing the wheel with these conservation programs. SGI worked, and a lot of it is highly transferable. Focus on how to repurpose what is working and strategically invest existing funding.
• [Conservation] A “do no harm” mentality isn’t necessarily productive or realistic. Try to do no harm, but recognize that we don’t know everything about these species. Making some mistakes helps us learn more. Without accepting some level of risk when implementing new conservation measures, we can’t learn what works and what doesn’t going forward.
Transparency

• [State] Transparency and relationships are key. The way federal agencies approach certain issues can drive a wedge between potential partnerships.

• [Conservation] We have a problem building and maintaining trust with other groups when the goalposts keep moving. Our science and political environments are constantly evolving. We can change management practices with the best science, but regulatory assurances are needed. Transparency and assurances today help clarify that there will not be regulatory changes in the years to come.

• [Conservation] We often see deadlines create conflict where there was once partnership. We need to have standards that are transparent and establish them early in the process. A lack of clarity and transparency leads to collaborative processes breaking down.

• [Agriculture] Rushing into projects without first taking the time to build trust with the local community leads to trouble. You need to be transparent and demonstrate that conservation projects are a process, not an agenda.

• [Agriculture] One idea would be to have governors in each state publish an evaluation on the way federal agencies are working together and working with local stakeholders. This can serve to identify what programs are doing well and reward them.

• [Conservation] We need accountability for the programs that aren’t working. Enough box checking. We need accountability, transparency, and performance based metrics. Programs that aren’t working need to be weeded out.

• [Industry] There are basic principles that we need to keep in mind when designing conservation programs. Anything that is complex, difficult or hard to understand is only distancing partners further and creating barriers for those that want to get involved.

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

Federal-State-Local Consultation and Collaboration

• [Industry] The draft methodology for prioritizing status reviews by FWS is a step in the right direction. The lowest priority bin included species where state and local conservation efforts are already underway. It’s good for agencies to recognize that those species can take a backseat. This should be the first factor that is considered.

• [Conservation] State deference is the determining factor in a listing decision. The decision is saying the state wasn’t doing a good job. Asking for state deference post-listing is a bit academic. We need a state plan well before listing because the effect of the listing is that the state loses primacy. That’s the whole point of listing.

• [Local] State has deference up to the listing. But when the state is putting forth plans and funding and the FWS doesn’t provide feedback, how can they know what to do better to maintain their primacy or regain their primacy?

• [Agriculture] When you have a candidate species that has multiple federal intersections (i.e., BLM, USFS, FWS, NRCS all involved), one of the difficulties is that there is not consistency in how ESA is applied by the federal agencies. One of the ways to improve coordination that trickles down eventually to the local level is to encourage the federal agencies to have similar application criteria when they are reviewing projects. Take out personal employee bias.

• [Local] It’s not enough for FWS to review local government plans. They need to comment on them. There has to be feedback. If there’s no review about where your efforts should be focused, it’s not as helpful.

• [Conservation] “Materially engaged” local governments should be considered “cooperating agencies.” This may require a rulemaking change in order to define “materially engaged.” It would make a big difference. NGOs are never considered cooperating agencies, which is a frustration, but local governments certainly should be. Sometimes they are included but it isn’t standard.

• [Conservation] Until we achieve an appropriate level of planning, we are exposed to people capriciously, or with good cause, petitioning for species listing and we can’t anticipate every species. There are five or six species of birds alone in sagebrush that are probably more worthy of listing than sage-grouse. Achieving a plan that protects the sagebrush ecosystem is how we achieve management of the ESA.
• [State] Give the states and local government a bigger role in the process. They are sometimes just viewed as a checkbox (i.e., they just have to be at the table). Giving them a bigger role and clearly defining what that role is, makes them participatory in the process up to the final decision.

• [Local] Formal consultation with local government is needed. Consultation happens at other levels, but it doesn’t happen at the local level. Gunnison and 10 other counties put together a Gunnison sage-grouse conservation agreement, and the agency never reviewed it. A requirement for state and the federal government to evaluate local conservation efforts would make a big difference.

• [Legal] Memorandums of understanding (MOUs) can take on a life of their own and become contentious and complicated. It’s scary to actually formalize a process on paper. Maybe a less formal approach like a liaison setup is more workable. They require less time on drafting, lawyers, and formal review.

• [Local] Colorado has a liaison position between local government and state. It’s a Governor’s advisor dedicated to serving the local governments. There is nothing between locals and feds because they aren’t cooperating agencies. We could potentially have the National Association of Counties (NACO) serve this role.

**State & Local Science, Data and Expertise**

• [Agriculture] If the goals of federal and state agencies are the same and the mechanisms in place at the state level accomplish those goals sufficiently, that’s where deference should come in. If the mechanisms are in place to achieve equivalent goals, then let the states work.

• [Industry] Logically, it makes sense to have someone who benefits from the conservation of the species and also has an economic dog in the fight. We need someone whose interests are served by the efficient protection of endangered species to be the leader. State fish and game agencies fit the bill.

• [Local] We don’t care what form consultation takes as long as federal agencies actually take input. A form letter isn’t enough. We need to focus on ways to affect FWS policy that directs staff to more seriously consider local government comments. In terms of mechanisms, there have been some folks who think that Governors’ Consistency Reviews on environmental impact statements (have been helpful. Maybe the ESA would benefit from something like that.

**Stakeholders’ Role**

• [Local] There have been instances in Idaho where the FWS didn’t have the resources for a fish biologist, for example, so the state would “loan” a biologist to the FWS or a private industry would bring someone in. This is good way to help ensure that we are engaging all parties and building on the expertise of all of those involved.

• [Water] A challenge is identifying who stakeholders are, including nontraditional stakeholders. There needs to be a better process for this.

• [State] The reality is without bringing private landowners to the table the process isn’t going to work. If they feel they always have something to lose, the process is going to fail. They have to have something to gain, not just to protect the status quo. Everything now is risk-driven rather than reward driven. Everyone is trying to protect their space rather than participate.

• [Industry] The listing of a species frequently puts economic burdens on people. Species listings can occur and recovery plans can be issued without formal evaluation of the cost. If they go into a species listing, even if the cost isn’t a factor for listing, you should still know what it’s going to be. Efforts to prevent the listing of a species or delist a species have a positive economic value to the state, which should also be considered.

**Theme: Landscape-Level Conservation and Ecosystem Management**

**Ecosystems Management**

• [Conservation] If we work on the landscape as a whole, then imperiled plants and other less charismatic species will theoretically begin to naturally progress in status. If we group landscapes into categories like riparian or high alpine and work to conserve that landscape, things should start to fall in line.
• [Conservation] Endangered species are not evenly distributed across the landscape. They are clustered. Focusing on these clusters would be a more efficient use of resources. Funding for sage-grouse benefits additional species, but right now it is just tied to that one species.

• [Sportsmen] The narrative around sage-grouse needs to change. The intense approach of conserving that single species created benefits for 350 other species in the sagebrush steppe ecosystem. It may be better to acknowledge that benefit upfront as opposed to it hinging on one species which can be divisive. We are accomplishing more by doing it all at the same time, and there is a long-term economic and conservation benefit to that.

• [Local] When you deal with one species at a time, you lose so much of the other interaction and overlook a lot of threats like predation. Sometimes the science focused solely on one species can skew the whole picture.

• [State] Many programs define success by population levels. That is problematic as that number changes yearly and certain populations will often do better than others. We need to step back and look at why some populations are doing better than others. A broader landscape-level view helps to define that why question.

• [Industry] Landscape-level conservation needs vision, scope, definition, boundaries and context to succeed. What does the landscape truly look like and what is really necessary to conserve it? Without definition, what is defined as a landscape seems potentially endless.

• [Conservation] Early ESA conservation efforts like the New Mexico dune lizard were narrowly defined. Sage-grouse pushed us to think bigger and at scale – but at what scale? How that is defined is important. In California, there are species that are extremely habitat-specific. With sage-grouse work we may have harmed habitat for sage thrashers or brewer’s sparrow. Nobody knows that for certain, but did we overlook something by focusing on this one species?

• [Conservation] It is important to define if we are looking at multiple species versus habitat or ecosystem types. Success and a desired outcome can be open to interpretation depending on what you focus on. We have to work out a common definition of success.

• [Agriculture] There are instances where good habitat may not save a specific species. What do you do in that case? A social objective of quality habitat may conflict with conservation of a single species in those instances.

• [Local] The problem with looking at sage-grouse success as a landscape success under the ESA is that the ESA was only concerned with that one species. Even if you are doing landscape-level conservation, you are only able to discuss sage-grouse. We need to look at a way to identify the interaction between species and integrate that into the ESA.

• [Conservation] Looking at ecosystem management through the ESA lens can undermine the holistic strategy and can undermine other obligate species. Multiple species don’t have to be intensive like sage-grouse. Broaden that focus out to other sage obligates that are threatened.

• [Sportsmen] We need to create a multiple species conservation effort that is valid and effective before the ESA comes into play, but also one that is helpful following a species being delisted. We need something that doesn’t hinge solely on the ESA but is as effective without the ESA.

• [Conservation] There is a lot of context in framework and principles for these ecosystem-based efforts. We don’t have to reinvent the wheel. The time is ripe and sage-grouse offered us a model to work from.

Adaptive Management Tools

• [Sportsmen] Federal agencies would likely need to adjust guidance and planning handbooks for landscape-level efforts to succeed. We need flexibility to take advantage of cross-jurisdictional planning efforts. If a resource management plan (RMP) is ready to be rewritten, other agencies need to be brought in to combine planning efforts.

• [Agriculture] Implication can have a big impact on these efforts. Habitat Conservation Plans (HCPs) are theoretically multiple-species plans, but an HCP is a plan that implies that you are a bad actor and you need to mitigate for that. That doesn’t work well with the bulk of landowners. CCAAs and Safe Harbor Agreements (SHAs) are fundamentally better, but don’t cover that multiple species aspect.

• [Conservation] Generally, problems with the ESA could be avoided by anticipating listings. It comes down to ecosystem management. An idea is to create ecosystem institutes at universities that are non-punitive with no federal nexus. States could then take on the challenge of assessing conditions ecosystem by
ecosystem within their borders. The FWS could then review plans that states put together based on those ecosystem assessments, and could then provide regulatory assurances to states. We get into trouble when we frivolously change management based solely on responding to petitions.

- [Sportsmen] Effective conservation could result from batching species. Take a threat analysis and use it to make better decisions along the way and adapt to new conditions at multiple levels. We need to take advantage of new information throughout the process.
- [State] When looking at successful landscape-level conservation, we need to look beyond the ESA. Programs need to focus on habitat, water quality, soil health and other things that support healthy species. Addressing these issues well before we are even talking about the potential of a species being listed under the ESA is essential.

**Stakeholders’ Role**

- [Sportsmen] Building a viable landscape-level approach takes early action and commitment from groups. We need to look broadly at the ecosystem, assess what the foreseeable problems are, and then identify who needs to be involved.
- [Sportsmen] Thinking beyond the ESA is critical. There are numerous examples throughout the West of expansive efforts that balance multiple needs through stakeholder-driven processes. For example, land use planning with wildlife and resource extraction has been working well in Colorado. South Park has created voluntary mechanisms that put local counties in leadership working with utilities and Colorado water authorities. These are things we should learn from.

**Conflict and Litigation**

- [Conservation] If you have an ecosystem and don’t have a plan, plan on a petition. It is all about anticipation. Did you monitor your species so you’re prepared to respond to a petition? ESA Section 6 says that if you show your plan is working for the species, you will be covered under the Act. This is where the Wyoming example on sage-grouse comes in. They got a deal with FWS because they were ahead of the curve and had a plan before other states.
- [Agriculture] Before we can even think about designing a multiple-species approach, we have to look at conflict and litigation first. If you have multiple species interests being balanced, then you are likely open for a lawsuit over not devoting enough attention to one specific species.
- [Sportsmen] A significant downside to the multiple species approach is it exposes you to challenge from people focused on one piece of it. We have to create better specificity for listing and delisting process to reduce legal handholds that get in the way of celebrating success and recovery.
- [Industry] Federal agencies are too mission-centric. Missions shouldn’t be so different that they force staff into silos, but unfortunately that is the case. Collaboration can mean demotion.
- [Sportsmen] Success means achieving the ecological balance of habitat and population. People on the outskirts will challenge whatever you come up with. How do you marginalize the fringe so you can still be productive?
- [Conservation] Federal agencies are incredibly risk averse. Part of what got us in trouble with sage-grouse was the fear of any sort of habitat manipulation for fear that it would look bad. There is plenty we don’t understand, and we have to be able to take calculated risk to learn something new. How do we incentivize federal agencies to take this risk?
- [Agriculture] Federal agencies are so dis-incentivized to think outside the box. It is completely engrained in agency culture. I see that being a challenge to effectively implementing landscape-level efforts.

**Investment in Science and Measurable Outcomes**

**Best Available Science**

- [Conservation] It is important to get scientists coordinated and talking to one another. One idea is to have annual proceedings to create, for example, the “sagebrush bible” where all of the papers on the subject are shared. Multi-faceted conferences where you bring the major players in on an annual basis with all of the papers supplied.
• [Agriculture] ESA-related peer reviews that do not comply with the Data Quality Act should be deemed arbitrary and capricious. Also, the Services should be required to consult with the National Academy of Science and affected states, tribes and local governments to develop lists of qualified peer reviewers on each controversial ESA action.

• [Conservation] There is still not a clear definition of best available science (BAS). Is balanced peer-reviewed science the best available? Once we understand that, we can better inform policy decisions.

• [Agriculture] BAS is not absolute. It is a starting point. We all use science to make business decisions, but more often than not what happens is not exactly what we expected. We adapt. BAS should be a starting point that helps you reach a conclusion through adaptive management. It is naive for any scientist to say that their BAS will absolutely deliver an outcome until it is tested rigorously on the ground.

• [Conservation] There is a lot of room for what constitutes the BAS. In court, the standard is very much in favor of the agencies because the science must pass the judge’s test, which is not a hard test to pass.

• [Academic] How do you meet the ESA requirement that listing/delisting decisions be based on the best available scientific and commercial data in light of states protecting private property rights and the fear of divulging locations of species?

• [Industry] The requirements for science in a decision to list are far lower than the requirements to recover and delist a species. Some level of legitimacy of the science is needed on the front end. We need to give science equal weight in recovery.

**Uncertainty and Risk**

• [Agriculture] We need to accept a certain amount of risk if we really want to look at adaptive management as a viable process. We need to define upfront who will take on the risk. All of the participants and stakeholders must agree to a certain level of risk in order to participate.

• [Industry] From an industry perspective, adaptive management can change too frequently. You have to plan a budget for certain expenses and to do that you need certainty. Adaptive management has to find a balance of how often you change parameters of the project.

• [Academic] There is so much research that goes on, but there is no systematic data capture program for various programs and the research done on them. A historic data set to look back on is essential to determine what the framework is for looking forward.

• [Forestry] NEPA needs to be refined. We need to stop doing small EISs and go bigger when evaluating. So much money is spent on being bullet proof to litigation. We need to be more efficient with NEPA and actually get things out the door so there is money left to use for other projects.

• [Industry] Adaptive management has benefits, but it has to have bounds. We can’t enter into an agreement where there is no limit. The value of investing in science is that you can learn more and further define the boundaries of an adaptive management process. Industry fears these processes if there are no bounds or limits, especially timelines.

• [Industry] The role of science should be to inform the process within the policy decision that is being made. Are scientists coming up with ideas that give you more options, or are they narrowing your options? Ideally science should give you a range of options rather than foreclosing options.

**Stakeholders’ Role**

• [Legal] Sometimes stakeholders have information that informs science. It can get controversial when stakeholders try to advise on science when they don’t have the technical background. But it is important to remember that the outcome of science can be implemented in many ways. Issues can occur when the process becomes too science driven and stakeholders aren’t brought in to discuss the alternative options driven from the science.

• [Industry] We need to broaden the appeal of adaptive management to bring in additional stakeholders. Science’s role is important in adaptive management, but it shouldn’t be emphasized over the policy-making process.

**State & Local Science, Data and Expertise**

• [Academic] The best adaptive management plans are those that are the most specific and have questions and priorities well defined upfront. What do we answer and what are the experiments that we need to answer these?
• [Conservation] BAS is researchers, landowners and those that can actually add insight from a management perspective on the ground.

Theme: Listing, Recovery, and Delisting Process of ESA

Listing
• [Federal] Rapid fire petitions and listings that occur make timelines under the ESA even more complicated. Sage-grouse was unique in that it had a five year process to work.
• [State] Listings that are prioritized need to be transparent and should be done in a way that recognizes different timelines best suited to the need of the individual species.
• [Recreation] We need to give more time before listings. This gives time to provide incentives to impacted industries and allows for the development of more science. If a species is listed right away, incentives fall out. Suddenly the ESA feels punitive and stakeholders react accordingly.
• [Federal] There are certain species that don’t deserve to be on the list, but need recovery planning outside of the ESA. As soon as a species gets on the list, it hampers effective conservation. There are some cases where you have to wonder if a species got value from a listing. We need more mechanisms to help species prior to listing.
• [State] "Candidate status" was a good tool, but we didn’t make good use of it. The 2011 multi-species litigation settlement changed all of this and possibly took candidate status off of the table. FWS needs to consider limited use of some kind of status that recognizes where partnerships are working on a species. Sage-grouse would have been a perfect example for the use of candidate status with a five-year planning window.
• [Industry] There is no clear guidance on prelisting. The ESA needs a more detailed process for prelisting activities, and then a more realistic and logical sequence of actions moving through to a listing decision (probably over a few years).
• [Conservation] Petitioners are never brought to the table to provide input on the process. A solution is derived, but petitioners are rarely included. Including them in the process would resolve a lot of issues with litigation, but they are frequently omitted.

Recovery and Delisting
• [Conservation] Expecting complete recovery of every species on the list is simply fiction. There are many conservation-dependent species that are permanent residents on the list. It is too hard to get some species off of the list. It is also affected by the judges. If you get an activist judge you will face difficulty getting a species off of the list.
• [Agriculture] When performing recovery actions on a listed species there need to be timelines that are reasonable to species lifecycles. We need milestones for reevaluation. At some point you hit the limit of what you can reasonably achieve. You may hit that point and the species is persistent and can survive outside of ESA.
• [State] Recovery plans should speak to what it would take to uplist, downlist and delist a species. Also, those criteria should be presented at the time of listing.
• [State] We need to take a look at what is realistic in terms of recovery at the beginning of the process. Additionally, recovery plans need to be revisited as conditions change and new science emerges.
• [Federal] There is a failure in messaging success around recovery and delisting of species. Species get delisted and then the courts relist. The public believes that once a species is listed, it should always be that way.
• [Agriculture] We are spending an inordinate amount of time listing species compared to recovering them. FWS is totally overwhelmed with listing and can’t get to recovery. If that much effort is occurring on the front end, shouldn’t that be when benchmarks are set for recovery? That is when we have the most engagement and the most information. Why wait five years?
• [Industry] We need to get away from politically charged decisions and focus on a process driven by science. Statistics indicate that most species are delisted shortly after meeting recovery goals. The reason so few are delisted is because no money is going toward recovery.
• [Agriculture] When you are in the process of operating under a recovery plan, it may change over time and you don’t have a clear endpoint. You get to a point where you’ve spent millions of dollars to conserve
a species, preserve habitat and start new populations. When maximum work that can be done has been done and you know that the species is very unlikely to become extinct perhaps that is what can be achieved for recovery... Develop a new status to denote this and pass management back to the state at that point. Recognizing those species that have reached a maximum capacity of recovery and maintenance allows you to move on to a new species.

**Funding and Agency Capacity**

- [State] It would be beneficial for federal agencies to leverage funding prior to a listing instead of after.
- [Agriculture] FWS does not have the capacity to do research or monitoring. We need to maximize the use of ESA Section 6 to better leverage state research and state capabilities.
- [State] It comes down to a lack of resources within the FWS. The whole ESA process works better if we can address issues in the pre-listing phase. Unfortunately, fewer staff means less capacity to work proactively.
- [Conservation] We can say what we want about federal agencies needing to do more, but they don’t have the people or resources. There needs to be a solution besides do more with less.
- [State] 90% of the land in my state is private. If we are looking at allowing the state more deference in ESA administration and implementation, my state would have to provide some good incentives for voluntary conservation across all of that. Plus, we are totally funded by licenses on game species. If we were tasked with recovery plans we would have an issue.

**Timelines**

- [Recreation] Timelines are not tied to reality. Timelines in the ESA should be determined by the difficulty of the action or decision being undertaken.
- [Industry] Efforts to gather stakeholders to talk about conservation plans take time. We need to do it right. Conservation plans can last 20 or 30 years, so the process needs to be thoughtful. Timelines in the ESA tend to inhibit a thoughtful process.
- [Agriculture] We need to look at changing the review and finding timelines in the listing process. If not, then at least change the bar on petitions. Perhaps making the scientific bar higher for petitions if the timeline isn’t going to change.
- [Industry] Look at developing priority bins for decisional deadlines. If there is an HCP or some other conservation project being developed, then structure in an extension to allow flexibility on deadlines.
- [Industry] The ESA needs a categorization of species that will then be treated differently. Species under clear and present danger should receive the most urgent treatment in terms of timelines. Take action for rapid response to an urgent need. Other species need conservation to safeguard them in the future. Those can move on a different timeline.
- [Industry] Under the ESA there is an initial finding and then a 12-month status review period. This presents a research constraint. 12 months is simply not long enough to gather trend data. This also creates constraints for the regulated community. If your plan is to develop an HCP, this is an insufficient timeline to even accomplish the NEPA work. Trend data, biologically speaking, requires at least three years to develop and NEPA takes five years.
- [Industry] The problem is that timelines are not malleable. The issue is often a data gap. Instead of filling gaps with research, the gaps are filled with regulations. Timelines themselves drive a lot of prelisting litigation. We need flexibility at every step of the process to allow more time for work to be completed.
- [Agriculture] Timelines can be a local issue. If the species has a limited range, shorter timelines may work. If it has a broad range, then timelines required to work on conservation solutions require more effort. We need timelines assigned that reflect this.
Theme: Law and Policy Recommendations

Regulatory Efficacy

- [Sportsmen] People are afraid to open up ESA because there may be a lot of unintended conservation consequences. What everyone can get behind is the idea of empowering tools that are working and funding new tools to meet desired outcomes. That can come from administrative changes.
- [Federal] There are times where we try to jump into a problem and do everything through regulation. Why not first identify a problem, empower state and federal agencies with resources, and do a pilot project? Demonstrate what worked and what didn’t before you have everyone in 50 states making the same mistake. This takes a lot of risk for agencies out of the picture.
- [Sportsmen] We need to perform a thorough examination of changes that would make ESA work better then examine which of those can be accomplished through administrative changes and work to implement those.
- [Sportsmen] Many are afraid to open up the Act. An opportunity to change the law creates the opportunity for mischief on both sides. There is very low confidence and trust in those in Congress who would ultimately be making those decisions given the current level of polarization in the political system. If it was stakeholder driven, we could do it, but many worry about Congress.
- [Agriculture] Section 6 is the logical place to look at ESA reform. Language should be added to involve states in decisions on prelisting and candidate species.
- [Industry] We can’t take legislative reform off of the table. It is divisive, but there have to be things that we can work on to get some resolution. We need to come together as diverse stakeholders and help to define the reasonable middle ground. If we don’t, the middle will get defined by the edges.
- [Sportsmen] If there is a way to go in with a scalpel and not open up the whole body there are ways to make people feel more comfortable. It requires precision and joint commitment from stakeholders to say here is where we affect the best change for the desired outcome.
- [Conservation] A lot of what is “wrong” with the ESA is administration, not the Act itself.

Conflict and Litigation

- [State] There is no shortage of work that needs to be done on prelisting conservation. Litigation is often the problem. Litigation pushes things out of the prelisting stage. With time there are efforts that can be done to build and foster collaborative conservation solutions, but litigation forces things immediately into the rigidity of the ESA.
- [Agriculture] Enormous effort goes in to the development of HCPs, but litigation still occurs. Expending time and money on these projects is tough for private landowners. We are motivated to do good things, but have cost constraints that need to be considered as well.
- [Forestry] A big issue is that certain groups tend to consistently challenge development projects in the courts. Even when they lose they still win to some extent because after years of fighting in court the original intended project is often no longer viable.
- [Federal] Settlements are most likely to occur in deadline suits. There is a perception that government colludes with environmental plaintiffs, but the reality is that deadline suits generally favor litigant’s priorities over agency priorities.
- [Federal] A majority of the petitions received have a legitimate basis. Deadlines were put in statute because the executive branch did not previously act.
- [Federal] There needs to be a way to give FWS some defense on why they miss statutory deadlines, some sort of mechanism to let the FWS demonstrate that they are using resources in the most efficient way.
- [Federal] We need to find a balance where we don’t remove fundamental rights of access to government, but we still raise the bar to challenges and litigation. Potentially something along the lines of increasing the bar on standing requirements necessary to bring lawsuits forward.
- [Industry] A lot of litigation is born from uncertainty. We need to fundamentally understand what a listing means, which might placate some industries. Knowledge and certainty would certainly be preferable to a lawsuit. Things like critical habitat and recovery planning should be identified prior to a listing.

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• [Agriculture] For most stakeholders, it is not the deadlines that are the biggest problem, but rather the
listing itself. Litigation for professionals is simply a part of doing business. However, when the impacts
hit individuals it is divisive and prevents collaboration.

Workshop Roundtable Appendix
Honolulu, Hawaii

This Appendix collects paraphrased viewpoints captured during roundtable panel discussions and breakout
sessions at the Honolulu, Hawaii workshop of the Western Governors’ Species Conservation and
Endangered Species Act Initiative held on April 7-8, 2016. The Appendix is organized by the six overarching
initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an
indication of the sector of stakeholder whose viewpoint is presented.

Theme: Incentivizing Proactive Voluntary Conservation

Assurances
• [State] Safe Harbor Agreements allow landowners to pursue species recovery and protect endangered
species and still be protected if they choose to shift recovery efforts to benefit a different species. With
those incentives, landowners harboring wildlife that has been recovering can shift focus to species that
need more attention without fear of being penalized.

Incentives vs. Regulatory Hammer
• [State] Government entities need to assess where collaboration can be used to foster voluntary
conservation, education and enforcement to stretch limited budgets further.
• [State] Historically, some state governments have operated in silos, but that has been changing recently.
This allows voluntary programs to navigate the process more efficiently.
• [Conservation] The Endangered Species Act (ESA) is not broken. Very few species have gone extinct once
they’ve been listed. Most species that are listed show an increase in numbers. With that said, there are
still things that we can do better. One major improvement would be to proactively identify at-risk
species. Agencies already do this, but it is not as big a part of agency missions as it should be.
• [Conservation] Fish and Wildlife Service (FWS) funding through Partners for Conservation Programs and
ESA Section 6 recovery funds help NGOs to facilitate conservation on the ground. This investment has
built a considerable amount of trust with landowners that, in some cases, have led to landowners being
actively involved in habitat conservation plans, critical habitat development and enforcing take issues.
Incentives in the form of funding for recovery can go a long way in fostering relationships.
• [State] Most would agree that it is most desirable to emphasize pre-listing conservation efforts to keep a
species from needing a listing in the first place. A major challenge to pre-listing conservation is a lack of
consistent mechanisms to foster cooperation and collaboration. Usually that is not for lack of thought or
effort, but a lack of funding.

Monitoring and Early Action
• [Federal] There are roughly 10,000 species endemic to Hawaii and, at this point, we have more than 5,000
alien animals and plants that have been introduced. With limited resources at hand we need to start
seriously evaluating where we have failed and move on to managing the next emerging threat. It is far
more cost effective to eradicate invasive species when they are just beginning to spread compared to once
an alien species is established.
• [State] Federal land management agencies are managers of large land tracts that have similar concerns regardless of agency affiliation. These concerns may include similar threats to species or a consultation need down the road. Many species’ statuses could be greatly improved on public lands. In many cases, stewards of private lands are the ones doing the right thing and giving us strongholds for species.

• [State] If climate change brings more species under protection of the ESA there will be increased competition for resources. We can eliminate that scenario by doing a better job with species prior to them needing to be listed. That means a better funding mechanism for those species.

• [Industry] Recognizing which species need conserving early on -- way ahead of a petition or proposed listing -- is the goal. That only works if the ESA is based in science and fueled by research and data. It seems that we are straying from that, and the ESA is becoming a tool based in ideology and fueled by agendas. That erodes some of the ability to identify species early on and act. We need to all get together and combine resources to see what is coming down the pike.

• [Federal] Work has been done with farmers and ranchers to develop conservation plans for endangered species threatened by invasive pest species. Part of that partnership is developing conservation plans in coordination with private landowners and helping them understand where the threats are, and what best practices will best address the threats to species.

• [Federal] Conservation actions in a patchwork system are fine, but it is most effective to look at more large-scale projects that leverage the combined expertise of multiple groups.

• [Federal] People often speak about the over-regulation and inflexibility of the ESA. But it is important to recognize the inherent flexibility built into the ESA and work with local stakeholders to employ conservation solutions that are tailored to their unique needs.

• [Agriculture] We are not going to be able to spray our way out of the invasive species problem in Hawaii. We need to come together and discuss what we can do to prevent the spread of invasive species. Some of these solutions can come in the form of natural vectors and biological control. This practice, combined with grass management practices and rotational grazing, has proven to be successful in eradicating some invasive plants.

**Transparency**

• [Conservation] It would be good to bring back a “watch list” so everyone knows what species are in trouble and what may be the next species to be petitioned. This used to be done and it did help to focus prelisting conservation actions and even helped keep some species off the list.

• [Conservation] The Services should put out what they think are best practices in managing certain at-risk species so that managers have clear information at hand before making decisions on conservation actions.

• [Federal] Once a species is petitioned, we no longer have the luxury of asking ourselves if the ESA will help the species. We need to do a better job of bringing petitioning entities into conversations early on whether the ESA is the proper tool to protect the species. We need to assess what their goal is and what we can do to help achieve it early on.

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

**Federal-State-Local Consultation and Collaboration**

• [State] Policies and regulations that the Services need to abide by should be more flexible to allow for increased state participation. In recovery planning, states should be invited to participate on both technical and policy teams, but that is not always the case.
• [State] ESA can be valuable to state regulators but at times can be overbearing. We need to focus on balancing managing wildlife with working in communities to ensure that wildlife is a value-added commodity.

• [State] ESA Section 6 requires collaboration with states. It’s been tremendously important to our success, but we need consistent funding and intention to succeed.

• [State] Federal and state agencies need to get together with conservation stakeholders to make sure that our actions are actually in the best interest of the species we aim to recover. For example, state consultation in monk seal critical habitat designations may have helped avert some of the intentional killings that occurred.

• [Conservation] It makes sense to bring states into the ESA process in some circumstances. Ultimately, it is a federal agency decision to list or not, but having state involvement is a good thing.

State & Local Science, Data and Expertise
• [State] Community-based fisheries management is gaining strength in Hawaii. Strategic planning and community initiatives are empowering locals to restore near-shore fisheries through a combination of practices including voluntary monitoring, proposed closures and pollution reduction in reefs.

• [State] States should be partners in every aspect of the ESA, as called for in the Act. States bring management authority for a majority of species, expertise, leadership, funding, research and a high level of community engagement.

• [State] Something as simple as using barbless hooks for fishing has gone a long way to promote recovery of endangered monk seals. They are recovering, but as a result communities are dealing with interactions with these species that they never have had before. State and locally-led barbless circle hook projects helps mitigate seal interactions. The project has entailed barbless fishing tournaments, family oriented events and fishing supply store initiatives. Ultimately, the goal of this effort has been fostering good will towards these species that the public is now encountering more regularly.

Stakeholders’ Role
• [State] Success developing marine reserves in California has depended on broad stakeholder participation in the process. Multiple appointed stakeholder groups developed proposals that were then reviewed by a science team and finally approved by a blue ribbon policy task force.

• [State] Setting restricted fishing areas is an extensive process. An inclusive public discussion and good science are basic to its success. There are many different constituencies and views that can be worked out with time, but the essential elements are solid science and inclusivity.

• [Commercial Fishing] The world and country are better places with the ESA. It is ironic that we have a law that is truly great, but we run into these problems because of human behavior. We still don’t have a clear process after 40-plus years. Involving as many stakeholders as possible is a step in the right direction that will lead to more objective processes and decisions.

Theme: Landscape-Level Conservation for Multiple Species and Ecosystem Management

Ecosystems Management
• [Conservation] Watershed partnerships can be effective ways to manage endangered species by providing other benefits to the ecosystem. Many of the actions performed by the Kauai Watershed Alliance are also needed to stabilize habitat for endangered species.

• [Conservation] Traditionally, preserves were managed individually and focused heavily on maintaining the integrity of each preserve. By the 1990s we were managing so many invasive plants that thinking
changed. We began thinking at a landscape-level scale and working across landowner boundaries and watersheds.

- **[Conservation]** Instead of focusing on removing each individual invasive species from preserves we focus on large-scale infestations. We realized it was more effective to look at species that are extremely aggressive and turn large acreages into monoculture, impact hydrologic regimes, or change the geochemical process.

- **[Academic]** There is a need to look not only at the size of marine protected areas, but also at corridors of connectivity for migratory fish. For many fish, marine protected areas only cover a portion of their life-cycle.

- **[Agriculture]** In the past, private landowners looked at invasive species and endangered species as two separate issues. That is a narrative that needs to change. Invasive species and endangered species are becoming increasingly interconnected and we need to look at large scale solutions.

### Adaptive Management Tools

- **[Conservation]** Landscape-level conservation is a great idea, but more funds are needed to successfully implement it. In Hawaii, we have numerous high density endangered species hotspots. If you overlay where endangered species are, generally they are in dense clusters. Ecosystem-based approaches across the landscape could help to address this, but the money to carry out these actions just isn’t there.

### Theme: Investment in Science and Measurable Outcomes

#### Best Available Science

- **[Commercial Fishing]** On the stated goal to protect 10% of the ocean by 2020: it can be hard to implement numerical goals in the real world. Rather than offering a flat percentage, focus on empirical research developed over time to answer the question of how much needs to be protected. We need to do something for ocean health, and it’s a question of what can be demonstrated as successful in achieving that.

- **[Commercial Fishing]** When talking about fisheries, we need to be careful about using the term "set aside" in the context of marine protected areas and actually define what is being protected. Is it setting area aside with no extraction? No access? Definitions tell the story better than a flat percentage.

- **[Commercial Fishing]** Counts of stellar sea lion are inconsistent. There are better ways to monitor than sending scientists out in airplanes and collecting spotty data. Drones available now can get better counts and pose less of a risk to the researchers. We know these are better methods, but it is hard to change how these things are done because when methodologies change it introduces a level of uncertainty.

#### Uncertainty and Risk

- **[State]** The greatest harm that the climate change discussion has brought in is the use of the term "uncertainty." It is easy to use uncertainty as a scapegoat to not address issues. We get hung up on uncertainty toward magnitude and timing, but there’s not uncertainty that change is coming.

- **[State]** When addressing modeled impacts to a species, assessing what constitutes the foreseeable creates questions. Where do should the line be drawn on threatened designations? Should it allow for protections even when populations are currently healthy? Can the ESA address those impacts or is something else needed? Can it make a species more resilient even if it can’t address climate change? If it can, then perhaps a listing is warranted.

- **[State]** It is tough to justify designating a species as threatened or endangered when a population is healthy and a listing can’t address any tangible threats. Wildlife managers are trained to err on the side of
caution, but there is a danger to doing that when society is not seeing the potential threat or doesn't quite understand it yet and only sees healthy populations.

- [State] There is the potential of public support for the ESA being eroded by continuing to list species. A growing list is competing for shrinking funds. ESA is needed and it would be awful to lose the power and influence of the Act through a lack of political and social support. For that reason, listing of species needs to be prioritized on those where the listing will result in actions that can address specific threats.

- [Conservation] One potential idea to deal with climate change in the ESA is to confirm the ESA as a tool in which we allow a listing because of climate change. Under this potential scenario an ESA listing for climate change could direct funds from carbon credits to the impacted state(s). If states are impacted by a climate listing, they are guaranteed a large input of funds that may serve as a benefit rather than a hindrance to the management of climate-impacted species.

- [State] There is no question that invasive species in Hawaii have a significant impact on conservation of native endangered species. Problems begin to arise in the form of dichotomies. One example is the Varroa mite: it is considered a nuisance for agriculture but is positive for environmental conservation because it kills non-native pollinators.

**Stakeholders' Role**

- [Commercial Fishing] A biological opinion for stellar sea lion was prepared in 2010 behind closed doors, with no external review. The biological opinion was challenged in court and the court ruled that the biological opinion needed a more complete process. Following that decision, Washington and Alaska hired scientists to review the bi-op in a public hearing and found that the National Marine Fisheries Service (NMFS) determination wasn’t supported by science. This example is not to beat on NMFS, but to demonstrate that open, transparent, well-reported and well-attended scientific processes work.

**State & Local Science, Data and Expertise**

- [State] Hawaii has taken the lead on addressing invasive species through the Invasive Species Council. Federal regulations for invasive species are often too broad to properly address the state’s interests. This becomes an issue when you look at federal laws pre-empting state laws. A pest may not be a concern on a national level and that means states are unable to implement quarantines or restrictions.

- [State] People are beginning to wake up to the problems caused by federal pre-emption in regulating invasive species. The U.S. Department of Agriculture (USDA) is now periodically going through their list of pests and re-evaluating what pest species are actionable with help from the states. There is more dialogue than there used to be on this issue. It is a step in the right direction.

- [State] State-federal partnerships need to be more highly valued, especially when actions to achieve delisting are being considered. States are invested for many years, and have developed lots of partnerships and data. It is essential to develop a more structural definition around the state role in the delisting process.

- [State] It is positive to see the efforts that the Services are making to change the petition process to involve states and allow states to add data first so the Services have the best data available when making decisions on petitions.

- [State] In California marine reserves scientists collected baseline data. This will allow for adaptive management as we move along.
Theme: Listing, Recovery, and Delisting Process of ESA

Listing

• [Industry] In Alaska we have seen several species listed on the basis of climate change alone. There needs to be a serious evaluation regarding whether ESA is well suited to tackle this type of long-term, global threats. Climate change is a global problem without a local solution. It may be the case with climate listings that once a listing is made, people live with the disease instead of finding a cure.

• [State] ESA shouldn’t be used to regulate greenhouse gas emissions. The link between direct harm to animals and individual facilities is not discernible outside of modeling and the Services aren’t equipped to regulate emissions.

• [State] We need to consider how to address currently healthy populations at risk of climate change impacts. One way to improve the process would be to provide a clear definition of “foreseeable future” that incorporates uncertainty and make climate based listings a lower priority due to the low immediate conservation benefit.

• [Federal] Following many mega-species petitions in recent years, NMFS has gone from managing less than 50 listed species to 130. Our workload has grown rapidly, but it is important not to lose sight of the guiding principle that we are first and foremost recovery biologists.

• [Conservation] It is easy to get more listed species – keep the status quo. We need to look at keeping the number of listed species low, but also place emphasis on delisting species. A lot of this comes down to funding.

Recovery and Delisting

• [State] The draft recovery plan for polar bear represents the first climate change-driven recovery plan. Greenhouse gases are the only significant threat to the polar bear. The problem is that meaningful conservation for a global problem at a local level.

• [Federal] In recent years many species have been delisted from distinct population segments of stellar sea lion. It is also important to consider the recently proposed 14 distinct population segments for humpback whales, only four of which would be proposed as threatened or endangered. All of this is occurring as federal budgets have flat-lined, but there is work being done to figure out new ways to continue recovering species in spite of budget shortfalls.

• [Federal] National Oceanic and Atmospheric Administration (NOAA) is working on a strategic approach to target efforts on particular species. This includes a process to look at the most at-risk species and those threats that can be most readily addressed. Resources are being targeted toward those species identified through NOAA’s national Species in the Spotlight program.

• [Industry] There was extremely little productive dialogue surrounding the listing and critical habitat designation for the Alaska polar bear. However, the recovery planning process was substantially better and it showed.

• [State] Having recovery plans at the time of listing is difficult when you consider meeting statutory deadlines plus meeting resource needs, but it makes sense. We are setting the stage for recovery planning in the listing phase, it just might not be completed at the time a species is listed, but we are doing the evaluation that sets the foundation of a plan.

• [State] It makes the most sense to develop a recovery plan and define the triggers for delisting or down-listing a species at the time of the listing. That is when the most data, most attention and the experts are on hand. The problem is the framework of ESA doesn’t necessarily allow for that.
**Critical Habitat**

- [State] When low value habitat is combined with high value on large designations of critical habitat it can have an unintended negative consequence for species. You are forced to expend capital on low value habitats, reducing what is available to address high value habitats. Early state involvement could help to identify the highest quality habitat for species.
- [State] Monk seals generally don’t form dense colonies and they forage on a tremendous variety of food, limiting the benefit of critical habitat. Regardless, a petition was filed to expand monk seal critical habitat, and NOAA was required by law to move forward with it. There wasn’t any real consultation and eventually a proposed expansion to critical habitat for seals was published. What followed was the tragic intentional killing of monk seals. This process illustrated what responses come from an environment of fear. This could have been avoided through a collaborative discussion early on in the process.
- [Conservation] The Services undervalue critical habitat. It should be advocated more in the planning process throughout the nation. One thing that could improve the critical habitat designation process is to better incorporate regional planning efforts that already exist.

**Funding and Agency Capacity**

- [State] ESA Section 6 funding is a wonderful tool and states are thankful for those funds, but the funding is often completely out of balance with the realistic cost of implementing 10-20 year projects and programs. Funding is a huge part of the problems that exist with the ESA. Making Section 6 funds on a scale that is commensurate with needs would likely make a huge difference in the implementation of the Act.

**Timelines**

- [Agriculture] Some strategies to control the spread of invasive species require going through the National Environmental Policy Act (NEPA) process. Invasive species require immediate management to prevent their spread, and when you are going through these lengthy permitting processes the window to manage these species can close and they become established.
- [State] Timelines under the ESA are so compressed that, even with Section 6 mandating cooperation with states, the Services have difficulty integrating state expertise into the ESA process. This leads to states feeling like they are categorized as any other stakeholder would be when the Act demands a specific elevated role for states.

**Stakeholders’ Role**

- [Agriculture] The story has been the same here in Hawaii for some time: large multi-species petitions are finalized and with them come large designations of critical habitat. The next step is outrage from the regulated community and landowners. Is this the best we can do? We need to harness the collective experience of all stakeholders, put aside agendas and politics, and identify common sense solutions.
- [Commercial Fishing] Fisheries advisory committees and council coordination committees have paved the way for industry groups to be considered an applicant to ESA Section 7 consultations. This has provided the chance to review and comment on draft biological opinions. This is a unique and valuable opportunity that was born from broad and intensive conversations early on in the process.
- [Conservation] Issues with certain interest groups taking down exclusion fences and other recovery techniques can only be solved through understanding their perspective. There is a way forward on these issues, but we have to show that we can work in good faith. Recovery actions for endangered species won’t work unless communities are in support no matter how much money you spend.
• [State] Climate-driven ESA listings do increase awareness. That said, listing a species under the ESA based on climate creates increased regulation on those that are already most affected by climate change. People are losing their village, and then ESA restricts harvest on their food supply.

• [Commercial Fishing] In addition to an open and transparent process, there needs to be quantifiable criteria for listing, delisting and recovery that are consistent. ESA processes should be subject to NEPA and the Administrative Procedures Act. Stocks should be reassessed periodically to ensure species are delisting in a timely fashion because the lives they affect are many. In essence, a consistent, open and transparent process that involves stakeholders is needed.

**Theme: Law and Policy Recommendations**

**Regulatory Efficacy**

• [Commercial Fishing] Offshore fisheries are regulated by caps on vessel numbers, vessel size, heavy monitoring, and federal and international laws, including the Migratory Bird Treaty Act, Endangered Species Act, Marine Mammal Protection Act and Magnuson Stevens Act. The Hawaii longline Fishery has been modeled to be sustainable, but fishermen face challenges from many layers of regulation and extremely large protected areas.

• [Commercial Fishing] ESA consultation for fisheries has additional layers when compared to other industries due the Marine Mammal Protection Act (MMPA) take authorization for ESA-listed mammals. Duplicative authorization requirements result in extensive delays. NMFS can’t issue incidental take statement without first doing an MMPA take authorization.

• [State] We need to look at the benefit of listing species already covered by the MMPA for climate change-based listings. There is a higher bar for protection under the MMPA than under the ESA, so if you get to a point where delisting under the ESA is possible, you still have more stringent protections under the MMPA. Where is the benefit from listing under the ESA in that scenario?

• [State] The MMPA presents a unique challenge for coastal states. Species can be delisted under the ESA and they are still protected by the MMPA, which is nice, but it is also challenging in that it preempts the state from taking management actions.

• [State] Distinct population segments are a tool that allows us to focus more on local conservation efforts. This is apparent when you look at coral species proposed for listing. Corals are invertebrates, so they can’t have a distinct population segment and have to be listed globally. Some species are abundant in Hawaii – they didn’t end up getting listed – but the concern was that we would have to divert resources to address ESA administrative tasks for these species and not engage resources toward active management of the species. Creating distinct population segments for invertebrates would require an amendment to the ESA, but it something worth considering.

**Conflict and Litigation**

• [State] Increasing numbers of listing and critical habitat petitions filed creates a two-fold challenge. The first is fostering a litigious atmosphere. The second is creating a conflict between following the letter of the law and solving problems through the most efficient use of resources.

• [Conservation] Petitions and lawsuits are important for preventing extinctions. Lawsuits speed up the process for getting species protected. There can be a long lag period between when the problem is noticed and when the species receives protection, but petitions and litigation help speed the process up. Litigation is not always the right thing to do. Many would advocate for a process without that, but it is important and we need some way to get agencies thinking proactively about protecting species.
This Appendix collects paraphrased viewpoints captured during Breakout Session discussions at the Honolulu, Hawaii, workshop of the Western Governors' Species Conservation and Endangered Species Act Initiative held on April 7-8, 2016. The Work Session Appendix is organized by the six overarching initiative themes that arose during the course of the four Initiative workshops. Each comment is preceded by an indication of the sector of stakeholder whose viewpoint is presented.

**Theme: Incentivizing Proactive Voluntary Conservation**

**Assurances**

- [Conservation] There needs to be a broader suite of potential incentives to landowners that take proactive mitigation measures on their land. If landowners engage in proactive mitigation measures, FWS needs to give assurance to landowners that they will be covered if landowners experience incidental take.
- [Federal] Regulatory incentives were critical to the success of sage-grouse conservation efforts. NRCS provided regulatory predictability through recognizing proactive conservation. In return, FWS agreed to protect those implementing approved voluntary conservation measures from future requirements. Replicating that would be a good start.
- [Conservation] One size doesn’t fit all, and that is also true with what levels of risk people are willing to assume from a regulatory context. Some landowners may want to do more upfront mitigation ensuring that their regulatory landscape doesn’t change in the future; others may want a more adaptive approach.

**Monitoring and Early Action**

- [Academic] The effort to list coral was ill-advised. They did not do the best job figuring out who to incentivize. One group wanted to create a Marine Protected Area, but often times the issue was sediment or pollutants and would require incentivizing everyone in the watershed to change practices. Education and evaluation are key. To truly help the corals out required education, identification and scientific evaluation. You need to fund monitoring to see if the money being spent is actually doing something of value to the species.

**Incentives vs. Regulatory Hammer**

- [Federal] Sometimes we see people spending all of the money in the ocean to address coral problems when in reality a lot of the issues to the species are terrestrial. Agencies have a patchwork of incentive programs but we need to look at a watershed level to truly make an impact. We need a watershed partnership success story to reference. If it works, perform outreach and try to convince people to mimic that approach watershed by watershed.
- [Conservation] Not all states can handle large programmatic conservation efforts under their existing regulations. In Hawaii, there is no framework to set up programmatic programs like what happened with sage-grouse because the state rules wouldn’t allow it. Getting some regulatory consistency between states and federal agencies would help the transferability of these types of programs.
- [Conservation] The NRCS is successful because it has people in the field working directly with landowners. The FWS and NOAA should look to emulate this model of having people on the ground to do face-to-face outreach with landowners. Enrolling in Candidate Conservation Agreements with Assurances (CCAs) or other programs can be cumbersome for landowners, but having staff in the field to guide them through the process on a face-to-face basis would help.
• [Agriculture] There is no need to reinvent the wheel. We need to take the best parts of existing models like the Wyoming sage-grouse model and the lesser prairie chicken range-wide plan.

• [Agriculture] From a landowner perspective, cost-sharing afforded to the landowner at 50%-plus would go a long way in incentivizing voluntary conservation. Forcing a financial burden on those trying to do the right things early on can limit the success of voluntary conservation efforts.

• [Federal] In offering financial incentives the Services have to be careful that we are not creating unfair advantages. For example, when we evaluate smooth-barbed wire fences to reduce bat mortality we have to evaluate each project individually to determine the appropriate incentive for clients to implement the smooth fencing on a case-by-case basis. It is about matching specific incentives for specific costs.

• [Conservation] The FWS should allocate funding based on the number of candidate and threatened species in an area, rather than endangered species, to help avoid species being listed in the first place.

Transparency
• [Conservation] There needs to be an organized way of identifying templates and best practices for people to follow to better coordinate species management efforts across the landscape.

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

Federal-State-Local Consultation and Collaboration
• [State] The NMFS and FWS operate very differently in implementing ESA, especially under Section 6. FWS is more inclusive with states than NMFS. All phases of the ESA process are inconsistent between the two agencies. One thing that would help is having state-led meetings with FWS and NMFS representatives all at the table.

• [State] There is certainly some box-checking that goes on when it comes to consultation. Litigation drives some of that, though. NMFS has become afraid to tell states of an impending action ahead of time, because they are afraid that it will get litigated for being in the “pre-decisional” period.

• [Agriculture] Early contact with state and local governments is important, but it must be truly collaborative. Federal agencies should start with existing state conservation actions and data and work to maintain ongoing state and local conversations.

State & Local Science, Data and Expertise
• [Commercial Fishing] States need to have greater authority and more latitude in discussions. More weight needs to be given to state efforts and conservation outcomes.

Stakeholders’ Role
• [Federal] In the FWS process, the Service considers partnerships. Often it is the case that formalized conservation efforts like habitat plans don’t get started until the listing threat. It is worth considering what incentive may be needed to kick-start those efforts ahead of the threat of a potential listing or critical habitat designation.

Theme: Landscape-Level Conservation for Multiple Species and Ecosystem Management

Ecosystems Management
• [Conservation] People generally agree that earlier agency consultation with stakeholders on a forward-looking basis is a good thing. However, this needs to be taken a step further and should occur in the pre-petition realm. We need to be better at anticipating these issues with advanced ecosystem planning.

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Stakeholders' Role

- [State] Agencies should adopt an overall strategy to incorporate collaboration across agencies and stakeholder groups to look at landscapes as a whole, rather than individual species as concerns arise.

Theme: Investment in Science and Measurable Outcomes

Best Available Science

- [Industry] Peer-review is intended to iron out good vs. bad science. Science is not just another opinion at the table. There is not a universal understanding that the scientific process is an important part of the ESA process.
- [Commercial Fishing] Nothing but peer-reviewed science should be used in the listing process. Agencies use data that isn’t peer-reviewed, yet external parties can only bring peer-reviewed data in.
- [State] The Services should look to adopt scenario planning: lay out potential impacts of actions. As the process proceeds and certain trigger points are reached, that precipitates certain actions. This would put options on the table at the beginning and reduce uncertainty.
- [Federal] When discussing utilization of adaptive management—while maintaining regulatory certainty—it comes down to creating transparent parameters. Analyze a whole suite of actions that are beneficial to a species. Once you have the broad set of actions that work to conserve species, you can provide assurances for that entire suite.

Uncertainty and Risk

- [Industry] Bats were listed under the ESA in the 1970s, based on inadequate data. Bats are very difficult to monitor, but later data indicated that the species wasn’t really endangered. Parties are putting huge amounts of money into mitigation for a species that may not really need it. We need more effort to figure out whether species are really endangered and what it would take to down list them. We need more consistent application of status reviews.

Theme: Listing, Recovery, and Delisting Process of ESA

Listing

- [State] There needs to be a reward when states, local government and stakeholder groups demonstrate that they can work effectively together. These proactive efforts should be rewarded with a lower priority listing status.
- [Commercial Fishing] Transparency works. Agencies need to be clear about who they are consulting on these issues. If there were an open process for stakeholder identification on the front end, it would be a more productive process.
- [Commercial Fishing] In the case of stellar sea lion, the listing took into account population counts from the 1960s. Shooting seals became illegal in 1990, the year that the species was listed. Population trends began to improve immediately. However, because shooting was not identified early in the review process, it was difficult to get it included as a factor all the way through. This could have been solved by including industry in the conversation on the species from the beginning.
- [Agriculture] It is all about transparency. The current system alienates people rather than bringing them to the table. The local community gets a shock of hearing about a problem at the time of listing petitions. It is essential to get dialogue going before the community gets its feathers ruffled.
- [Industry] The more federal agencies work with other stakeholders on a proactive, pre-listing and forward-looking basis, the better.
Recovery and Delisting

- [Commercial Fishing] The issue isn’t necessarily the measures on delistings (specific, actionable and measurable). The issue is what is behind the criteria that are set. If there are going to be stringent guidelines for delisting, the rationale and data support for those guidelines needs to be clear.
- [Federal] Concrete criteria introduces new battles. The general public and the courts require every conceivable threat to be considered. FWS will try to look at the totality of the circumstances.

Funding and Agency Capacity

- [Federal] The one thing in the ESA that isn’t tied to a statutory deadline is delisting. The reason is because recovery will take time. There are limited resources and you have to use resources first for those species that are most in need. Another deadline means another mandatory duty to meet deadlines without the funds to do it all.
- [Commercial Fishing] Resources aside, some sort of required periodic review of listed species should be conducted regardless. Parties are impacted whether it is a priority of the Service or not. Those impacted by listings deserve some reasonable period for review.

Timelines

- [Commercial Fishing] Stellar sea lions were listed in 1992. A major problem was there was no consistently applied process to review their status along the way. Agencies involved are operating in very different ways, with different expectations. This needs to be addressed from prelisting conservation through recovery.

Participant Comments

1 Conservation group: suggested that there are some instances where single species is on a different trend from overall ecosystem, so single species management becomes necessary.

2 Same reason as Recommendation #2. Sometimes you need to use a single species.

3 Local government official: 99% focused toward federal lands. What about the private land owners. Not only thing that speaks to protection of private landowner’s interest. Private landowners shouldn’t be run over by the process.

4 Federal agency: These are great aspirational goals, but the reality is there frequently is not science to meet these criteria. What do we do in that case? Can’t simply ignore or wait for “good” science and there is often not the $ invested to flesh out all science needed for robust decisions, recover plans, etc.

5 Conservation group: similar activities with low level of impacts causes concern

6 Goes against the intent of the act to not use economics as a criterion for listing/not listing.

7 Changing the act is a non-starter.

8 Look at species everywhere, and only delist when recovered everywhere

9 Federal agency: Timelines for delisting is an idea worth exploring, but a clock should not be the sole or main reason for a delisting. How can we find a middle ground here?

10 Industry: What if species meets “listing” criteria? Why wouldn’t it be delisted? Why is listing/delisting different? How can the two criteria be narrowed or brought together?

11 Could set up that FWS cannot meet timelines by cutting off the resources.
Could set up that FWS cannot meet timelines by cutting off the resources.

Conservation: The assumption is that people are abusing the system. However, it’s as much about litigating a listing, as it is litigating a delisting.

Reorganizing agency creates a mess if the system isn’t totally broken.

Not really germane to the topic—structural deal internal to the FWS. Instead, can we put more resources toward these partnerships and other proactive conservation efforts (within FWS).

Conservation: requiring petitioners to pay for additional data isn’t fair, the sheer volume and cost of additional data isn’t fair.

Conservation: The assumption is that people are abusing the system. However, it’s as much about litigating a listing, as it is litigating a delisting.

Conservation: Concern with requirement for occupancy. We may not have information for species, though they may be there.

Agriculture: Hammer approach isn’t effective. ESA has power, but causes unintended consequences.

Local government: Have to realize that won’t save all species. Things are going to go extinct. Have to have that in the equation. Extinction is part of nature

Not germane to the issues under discussion.