

Endangered Species Act

An Overview

ELI Summer School 2026

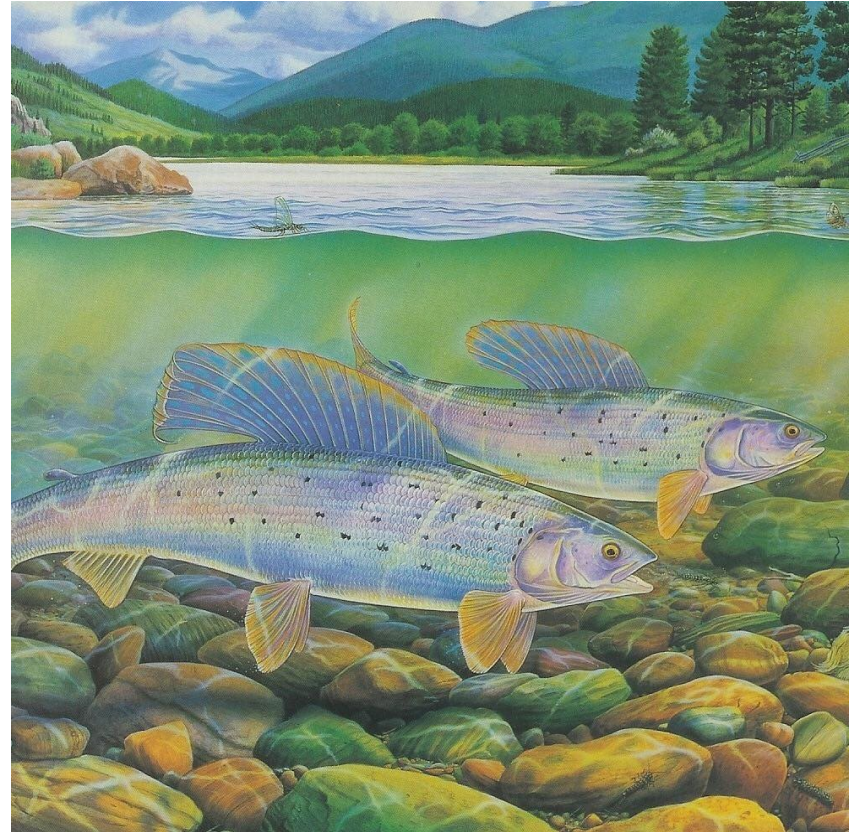
Jake Li

Overview

ESA HISTORY AND GOALS

ESA STRUCTURE

RESOURCES



Montana Arctic Grayling Recovery Program.

ESA Goals

Carolina parakeet
Extinct 1918



John Audubon

Brown pelican
Recovered 1985



USFWS

ESA Responsibilities

U.S. Fish and Wildlife Service

- Oversees 93% of 2,386 listed species (1,680 in US)
– terrestrial and freshwater species



NOAA Fisheries

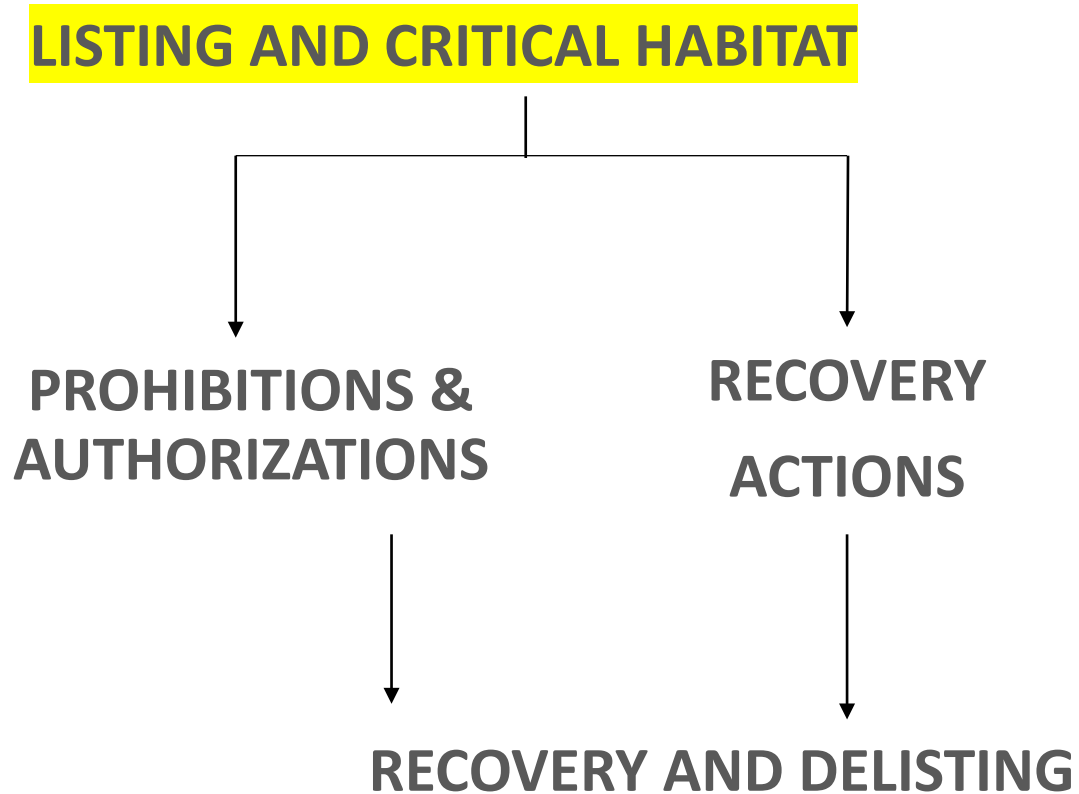
- All 165 marine and anadromous species



All federal agencies

- Must avoid “jeopardy” and “adverse modification”
- Must use “their authorities in...by carrying out programs for the conservation of” listed species.

ESA Structure



Listed Species

“Endangered” Species

- In danger of extinction
- Approximately 79% species listed



“Threatened” Species

- **Likely** to become endangered in foreseeable future
- Approximately 21% species listed



Listing Process

Based on Five Threat Factors

- Habitat loss
- Overuse
- Disease and predation
- Inadequate regulations
- Other factors

Science AND Policy Decision

- “Solely on the basis of the best scientific and commercial data available”
- How far is "foreseeable future"? What is "likely"? What is “extinction”?

'Immense political pressure' sank wolverine listing – judge

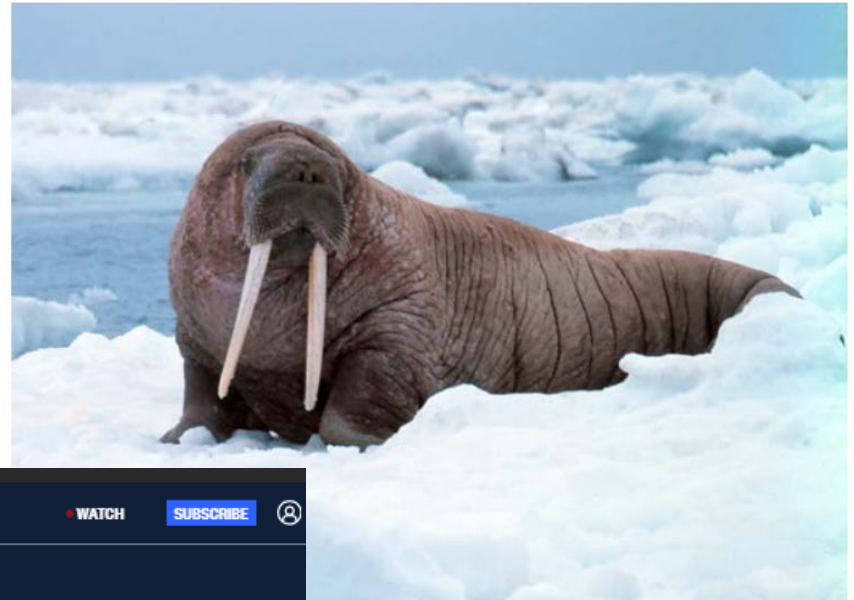
by Environment & Energy News
April 12, 2016



A federal court ruled last week that FWS violated the Endangered Species Act when it declined to protect th
/ Flickr Creative Commons)

Fish and Wildlife Service determines Pacific walrus won't be listed as endangered

October 4, 2017 by Davis Hovey, KNOM-Nome



WORLD

Alaska plans to sue over polar bear listing

The state of Alaska will sue to challenge the recent listing of polar bears as a threatened species, Gov. Sarah Palin announced Wednesday.



Listed Species

Full species



Lauren Glevanik, CC 4.0
Keck's checkermallow (2000)

Subspecies



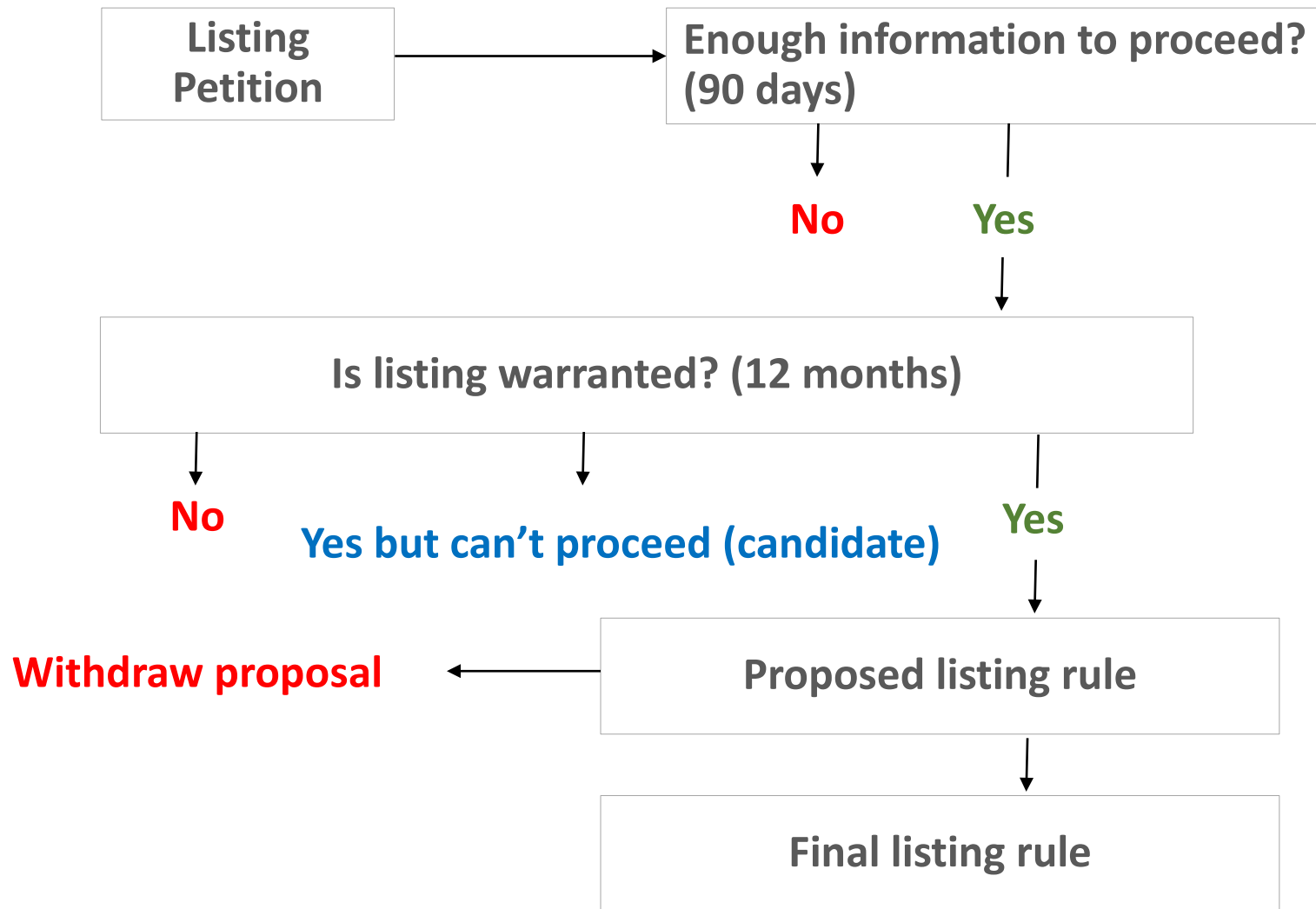
USFWS
Sacramento Mountains checkerspot butterfly (2023)

Distinct population segment (DPS) – *vertebrates only*



Adam Backlin, USGS
Mountain yellow-legged frog
- Northern DPS (2014)
- Southern DPS (2002)

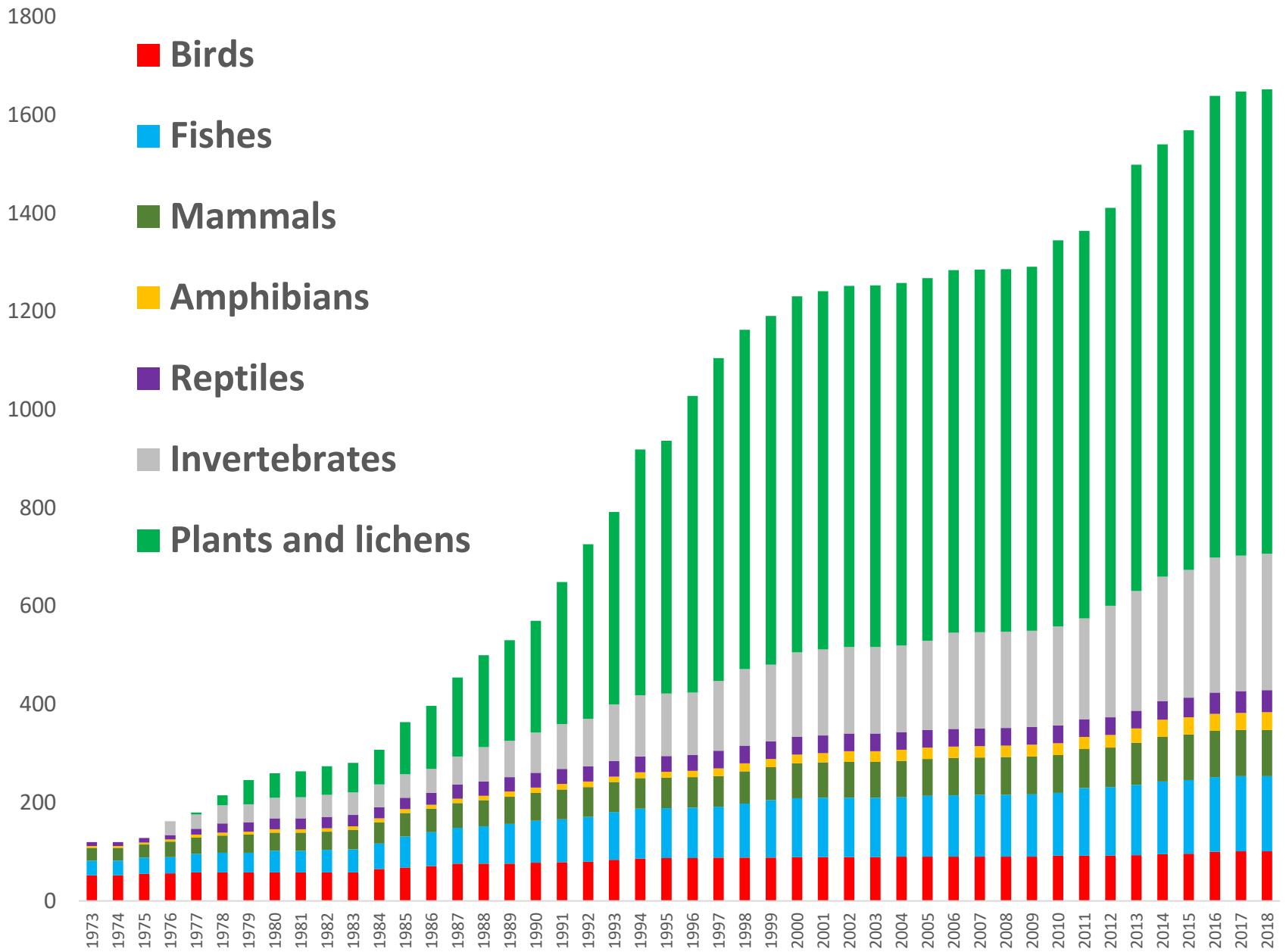
Listing Process

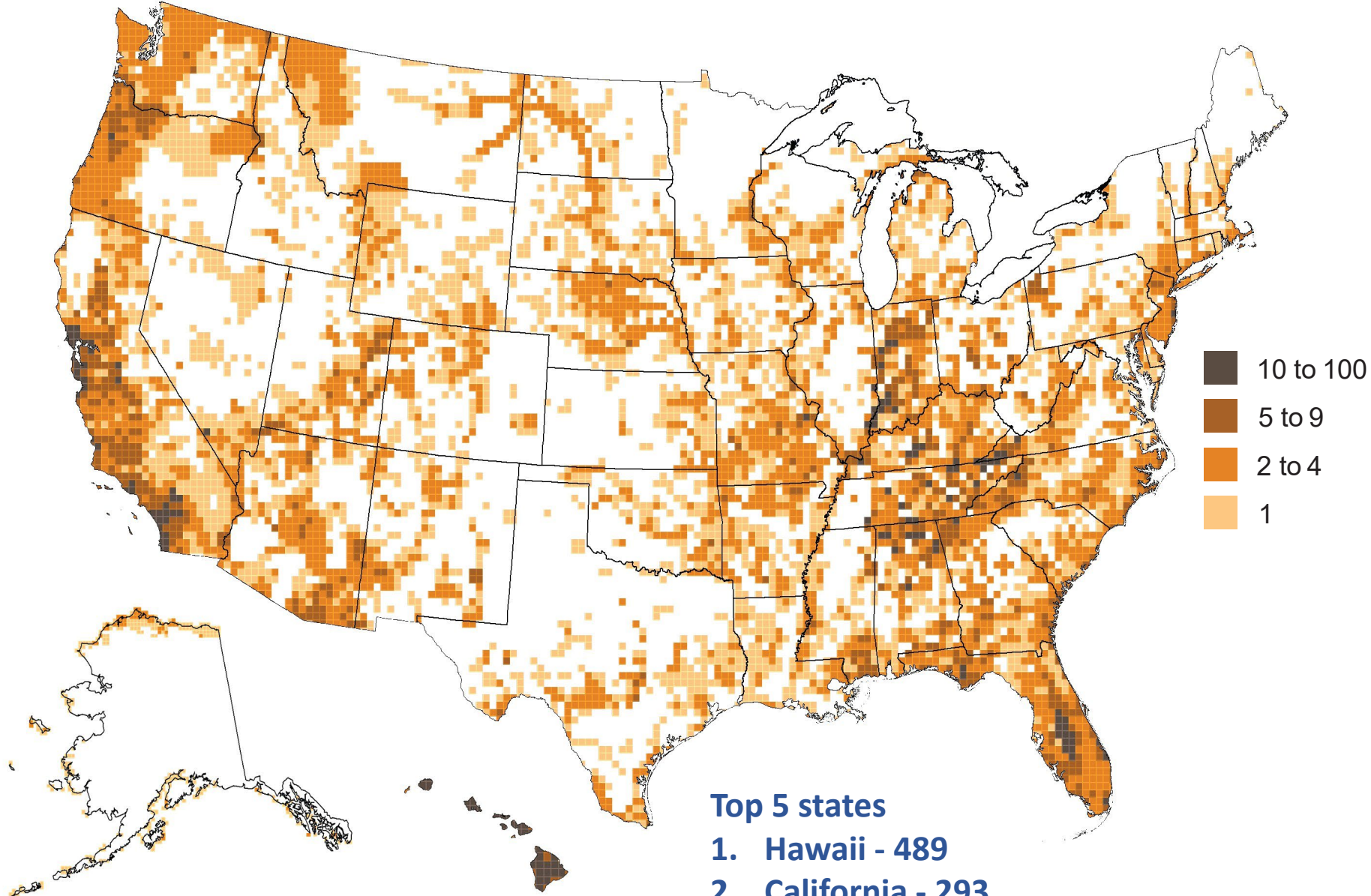




National Listing Workplan Prioritization

Package Name	Species Name	Action Type	Lead FWS Region	Priority Bin Ranking or LPN	Fiscal Year	Range	Scientific Name
2 Texas salamanders	Cascade Caverns salamander	12M/PLPCH	R2	3	FY24	TX	<i>Eurycea latitans</i>
2 Texas salamanders	Texas salamander	12M/PLPCH	R2	3	FY24	TX	<i>Eurycea neotenes</i>
Arizona Talussnails	Pinaleno talussnail	12M/PLPCH	R2	4	FY24	AZ	<i>Sonorella grahamensis</i>
Arizona Talussnails	San Xavier talussnail	12M/PLPCH	R2	4	FY24	AZ	<i>Sonorella eremita</i>
Edwards Aquifer Invertebrates	mimic cavesnail	12M/PLPCH	R2	3	FY24	TX	<i>Phreatodrobia imitata</i>
Edwards Aquifer Invertebrates	Texas troglobitic water slater	12M/PLPCH	R2	3	FY24	TX	<i>Lirceolus smithii</i>
Rio Grande Fishes	Rio Grande chub*	12M/PLPCH	R2	3	FY24	CO, NM	<i>Gila pandora</i>





Top 5 states

1. Hawaii - 489
2. California - 293
3. Alabama - 143
4. Florida - 136
5. Tennessee - 131

Critical Habitat

Occupied Habitat

- Physical / biological features essential for conservation
- May require special management considerations or protection

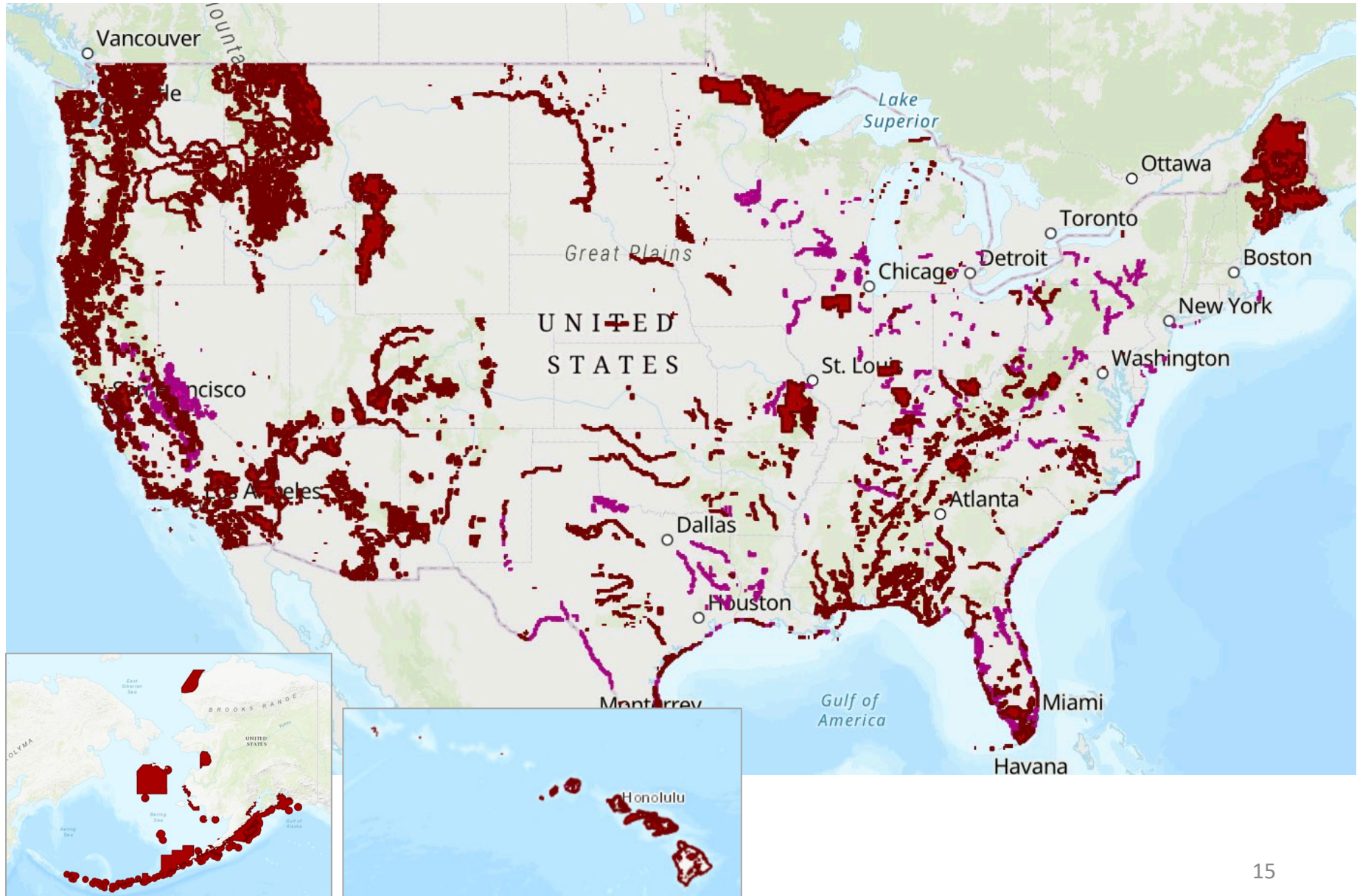
Unoccupied Habitat

- Essential for conservation

Exceptions

- Impacts analysis – section 4(b)(2)
- Not prudent – increase threats or no benefit
- Not determinable – delay if not enough data

Critical Habitat



ESA Structure



Applies to **everyone**: Section 9



Applies only to **federal agencies**: Section 7(a)(2)



Section 9 prohibitions

- Commerce



- **“Take”** – harass, harm, hunt, shoot, wound, kill, trap, capture, or collect. Or attempt.

- **“Harm”** includes habitat modification where it “actually kills or injures wildlife.”







By Redefining 'Harm,' Agencies Aim to End Longstanding Wildlife Protections






Trump officials have proposed changing a decades-old interpretation of a key word in the Endangered Species Act, which would make it much easier to log, build or drill for oil.

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SCIENCE

LISTEN & FOLLOW   

Destroying endangered species' habitat wouldn't count as 'harm' under proposed Trump rule

APRIL 17, 2025 · 5:00 AM ET
HEARD ON [MORNING EDITION](#)
By [Jonathan Lambert](#)

Section 9: Plants

- Limited to malicious damage and violation of state laws



Section 9: Threatened Species

E&E NEWS PM



Gift article

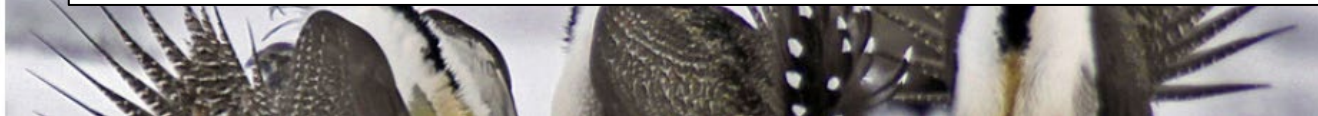
Two rules limiting Endangered Species Act protections advance

One proposal would require federal agencies to consider “the economic impact, the impact on national security, and any other relevant impact” before designating critical habitat for listed species.



BY: IAN M. STEVENSON | 06/08/2026 04:01 PM EDT

One change approved Friday by the Office of Information and Regulatory Affairs would remove the “blanket 4(d) rule,” which awards species dubbed “threatened” the same protections as those that are “endangered.” Threatened species are considered under the law as being in less danger of imminent extinction.



1973 – ESA statute: Section 9 protections for threatened species only through section 4(d) rule



**1978/1985 – FWS blanket 4(d) rules:
Section 9 protections automatically extend to threatened species unless species-specific 4(d) rule**



2019 - FWS repeals blanket rules



2024 - FWS restores blanket rules



2025 - FWS proposes to repeal blanket rules (again)

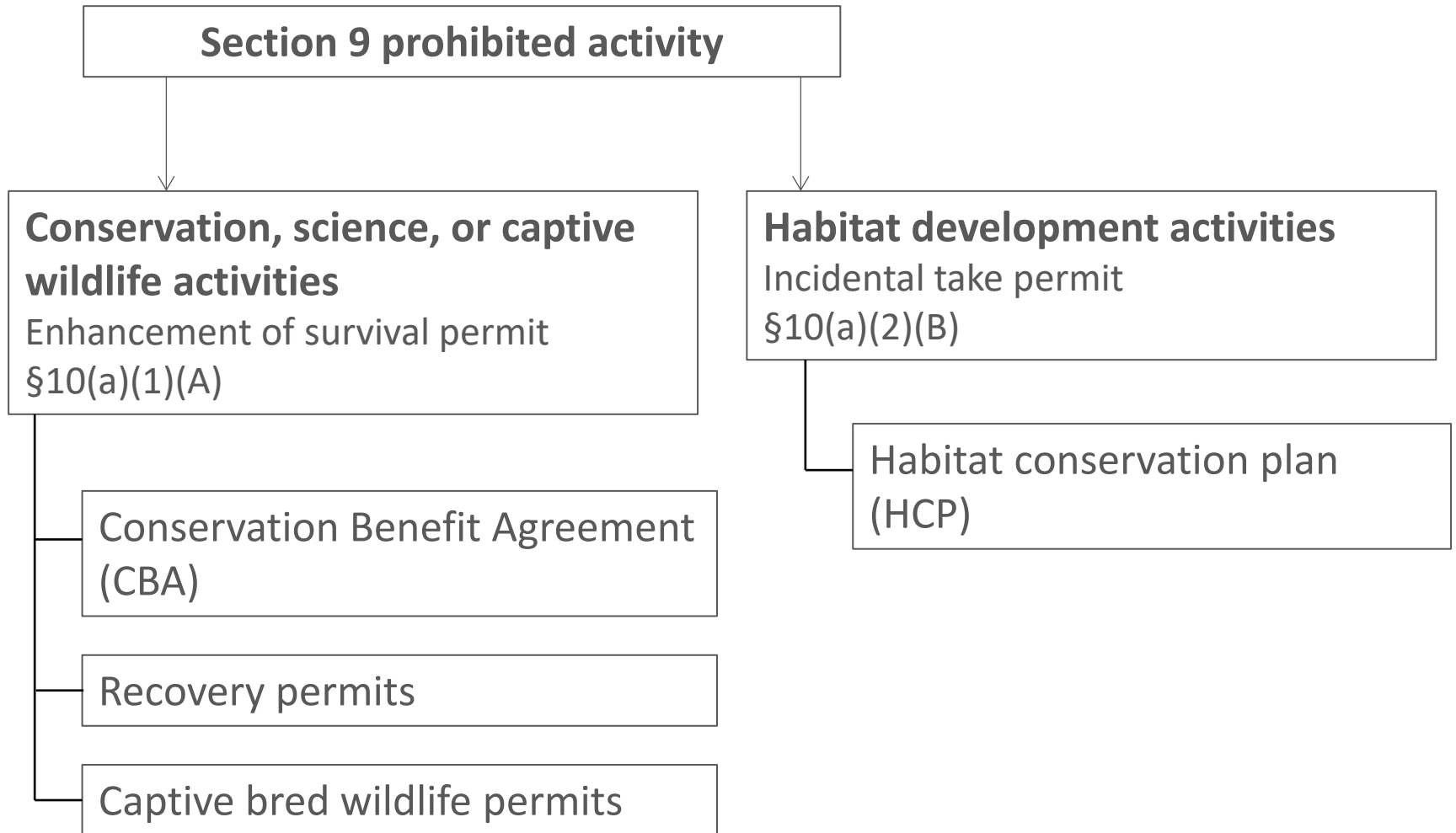
Do the blanket rules matter anymore?



May 3, 2018


Yellow lance listed

Authorizations: Section 9




Authorizations: HCPs

Over 46 million acres of land covered by over 1,200 HCPs

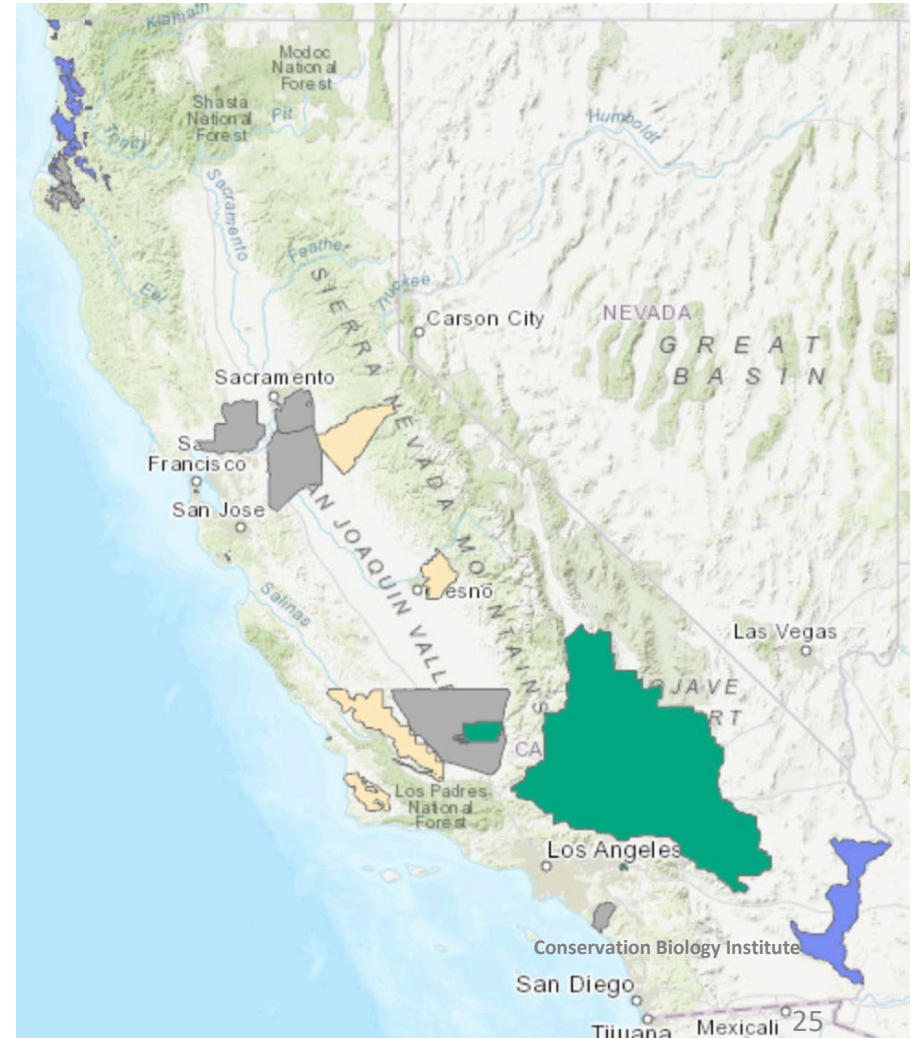



FINAL
CITY OF SAN DIEGO VERNAL POOL
HABITAT CONSERVATION PLAN

October 2017



City of San Diego
Planning Department
1010 Second Avenue, Suite 1200, MS 413
San Diego, California 92101

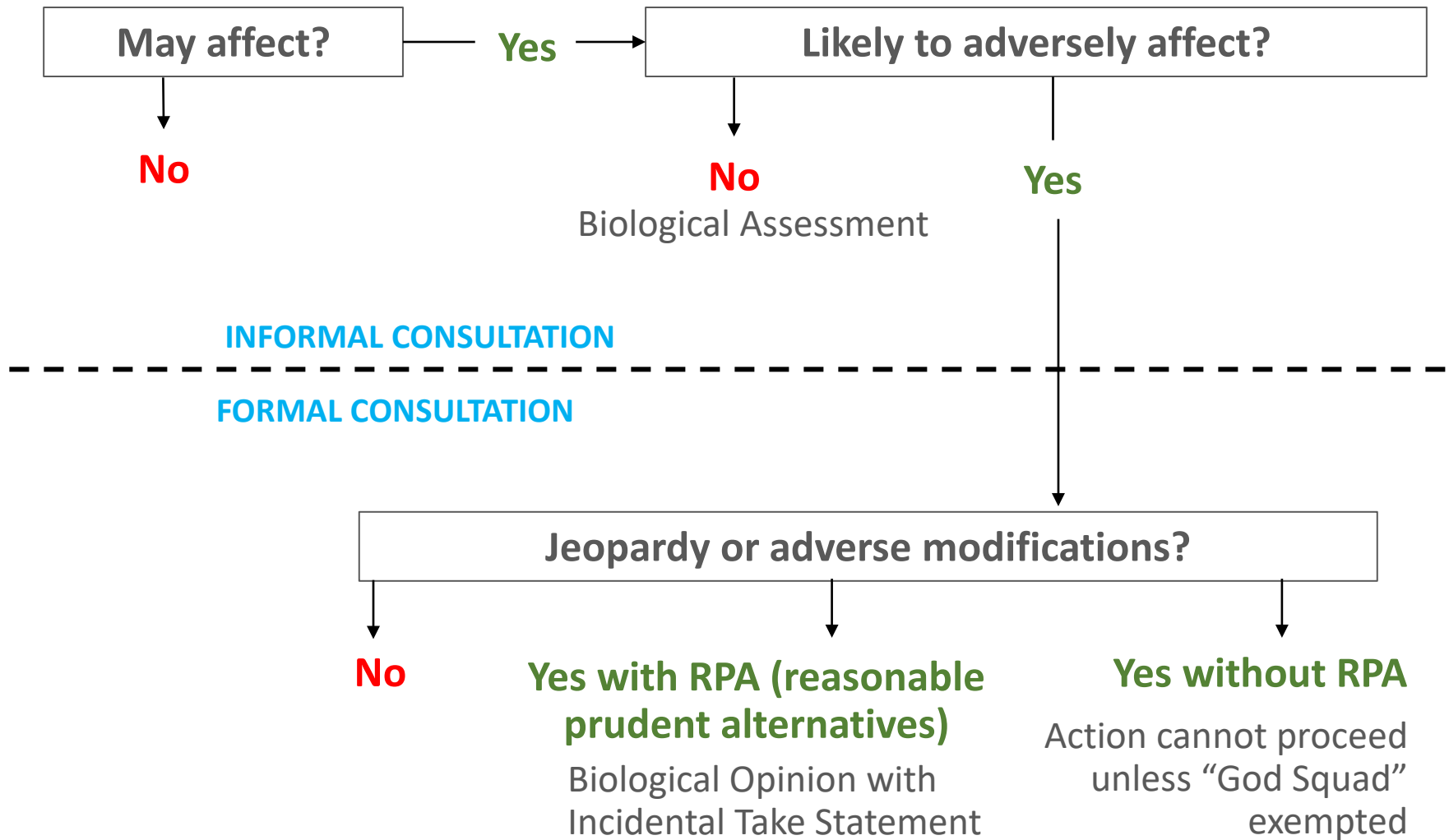


Section 7 prohibitions

- Federal agencies only – discretionary actions they fund, authorize, or carry out
- Process requirement – must **consult** with Service
- Substantive requirement - Cannot **jeopardize** species or **destroy or adversely modify** critical habitat



Section 7(a)(2) consultation





Endangered Species Committee Meeting Announcement

A Notice by the Interior Department on 03/16/2026



PUBLISHED DOCUMENT: 2026-05242 (91 FR 12672)

- PDF
- Document Details
- Document Dates
- Table of Contents
- Public Comments

DOCUMENT HEADINGS

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The New York Times

Trump Administration

LIVE War in the Middle East 4m ago

Trump in Wartime

Election Deniers

Approval Rating

The 'God Squad' Waives Environmental Rules for Offshore Drilling

The panel voted to override Endangered Species Act restrictions on oil and gas activities in the Gulf of Mexico, home to critically endangered whales and other imperiled wildlife.

National security exemption – 7(j)

“Notwithstanding any other provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security”



Chairman Capito on Permitting Reform: “We have an opportunity to deliver meaningful, bipartisan legislation that addresses these problems.”

February



U.S. Department of the Interior

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Administration Revises Endangered Species Act Regulations to Strengthen Certainty, Reduce Burdens and Uphold the Law

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HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

About

Subcommittees

Media

Committee Activity

It's Time to Reform the Endangered Species Act

WASHINGTON, D.C., March 6, 2025 | [Committee Press Office](#) (202-225-2761)

Tags: [Water](#), [Wildlife and Fisheries](#)

Today, House Committee on Natural Resources Chairman Bruce Westerman (R-Ark.) introduced the Endangered Species Act (ESA) Amendments Act of 2025 to make critical reforms to the ESA.

Westerman issued the following statement in response:

Prohibitions: Differences

Section 9

Take & commerce

Covers everyone

Doesn't protect habitat
alone

Animals only

Section 7

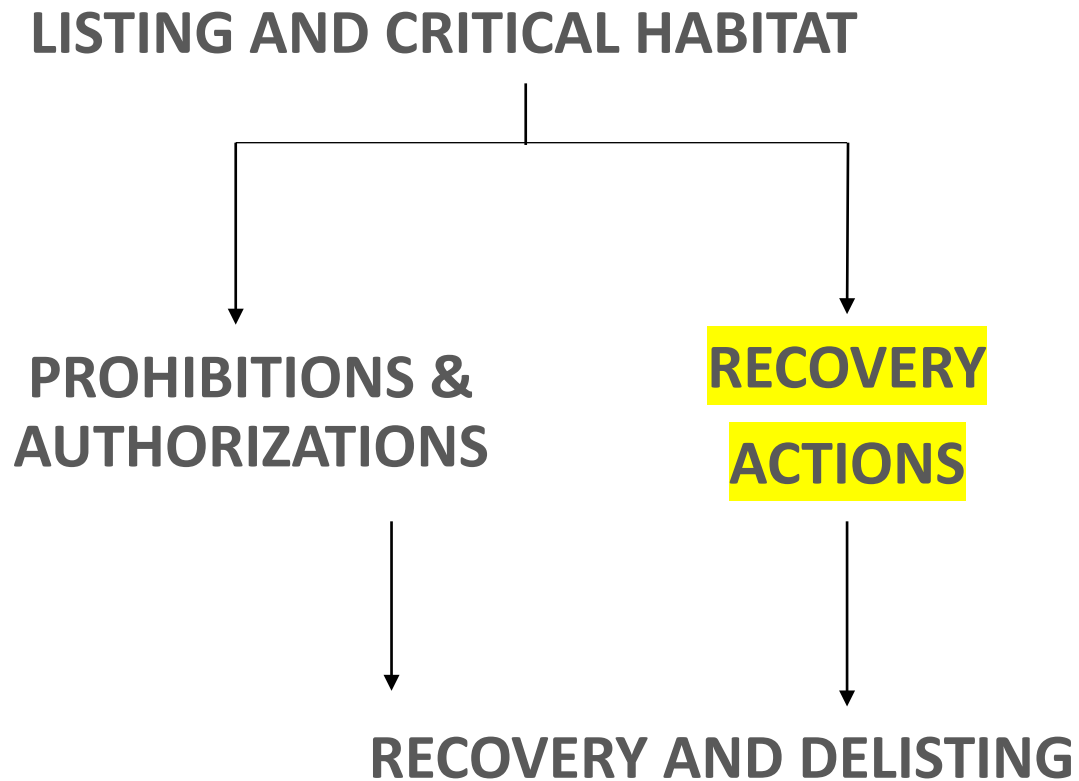
Jeopardy & adverse modification

Covers federal agencies only

Critical habitat protected (even if unoccupied)

Animals and plants

ESA Structure



Recovery

Must develop and implement recovery plans

Unless plan won't promote recovery

U.S. Fish & Wildlife Service

Recovery Plan for Laguna Mountains Skipper (*Pyrgus ruralis lagunae*)



Mendenhall Valley (photo courtesy of Alison Anderson, Service), Laguna Mountains skipper
(photo courtesy of Tom Mendenhall).

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Contents of recovery plans

- Site-specific management actions

2.8 Ensure long-term protection of habitat on Federal, State, and private lands that are occupied by Laguna Mountains skipper.

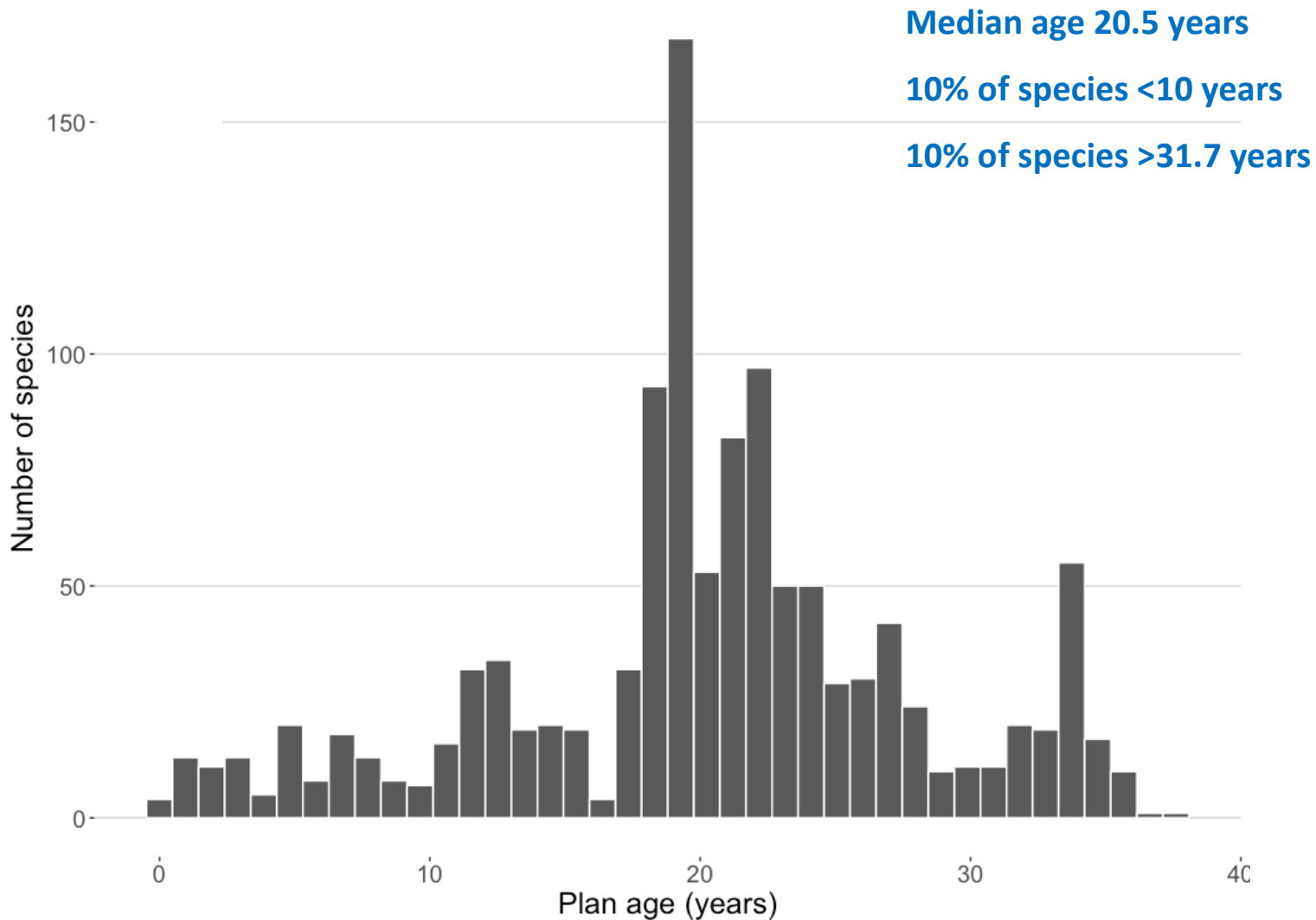
- Objective, measurable criteria (**will return to this later**)

Population studies show that a viable¹ Chucky madtom population in Little Chucky Creek and at least 1 other stream (Dunn Creek, Jackson Branch; e.g., the only known stream representing the historical range of the species) are naturally recruiting and sustainable (addresses Factors A, C, and E).

- Time and cost of recovery

Cost and Duration of Recovery: Recovery is anticipated to take at least 10 years and cost \$12,535,000. This is an estimate of when it could be demonstrated that all large, medium, and small populations met their recovery criteria. It could happen within a timeline of 10

Age of plans



Five-year reviews and Species Status Assessments

**Carolina Heelsplitter
(*Lasmigona decorata*)**

**5-Year Review:
Summary and Evaluation
2019**



Credit: USFWS

**U.S. Fish and Wildlife Service
Southeast Region
South Carolina Ecological Services Field Office
Charleston, South Carolina**

Recovery Reports to Congress

U.S. Fish & Wildlife Service

Report to Congress on the Recovery of Threatened and Endangered Species

Fiscal Years 2021–2022



1,484 status reviews completed

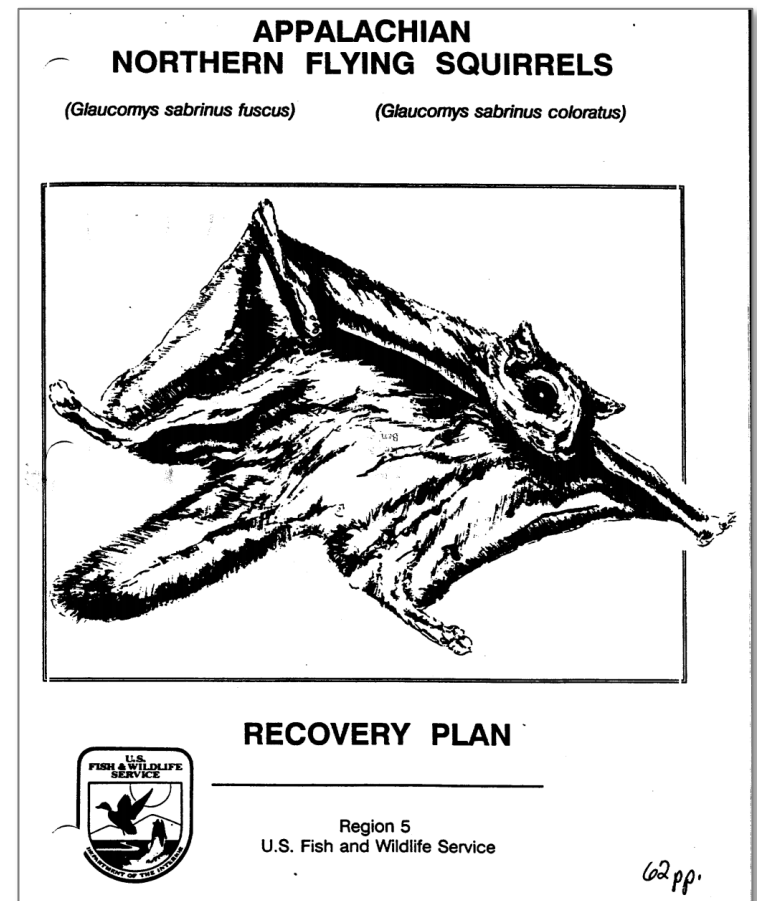
- 94% – no status change
- 3% – reclassify from E to T
- 3% – delist
- < 1% – reclassify from T to E

Delisting

Based on recovery criteria, but not binding

“Secretary reasonably interpreted the [Act] as not requiring that the criteria in a recovery plan be satisfied before a species may be delisted pursuant to the [five threat] factors in the Act itself.”

Friends of Blackwater v. Salazar,
691 F.3d 428 (D.C.Cir. 2012)



Delisting

State management and post-delisting monitoring

U.S. Fish & Wildlife Service

Post-delisting Monitoring Plan for the Bald Eagle (*Haliaeetus leucocephalus*) in the Contiguous 48 States

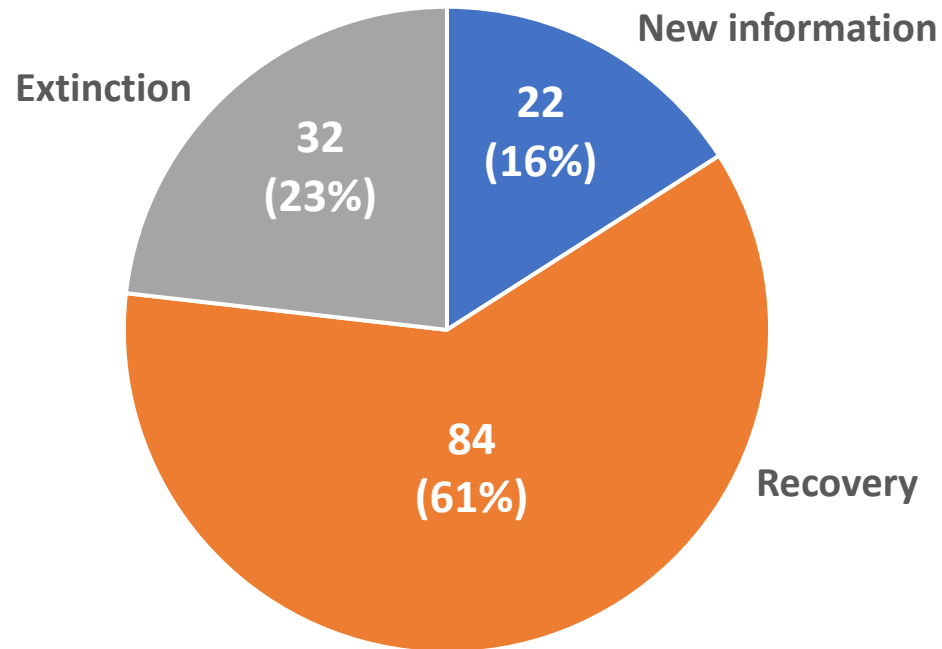


Table 2. Summary statistics of State-BCRs with the number of nests, plot, density per 10 km x 10 km, and standard error of the density. Density is determined from nest list nests. The larger, higher density strata will be sampled much more intensely. It is also encouraging that portions of BCRs in different States have similar plot densities. This suggests that the BCR stratification is effective.

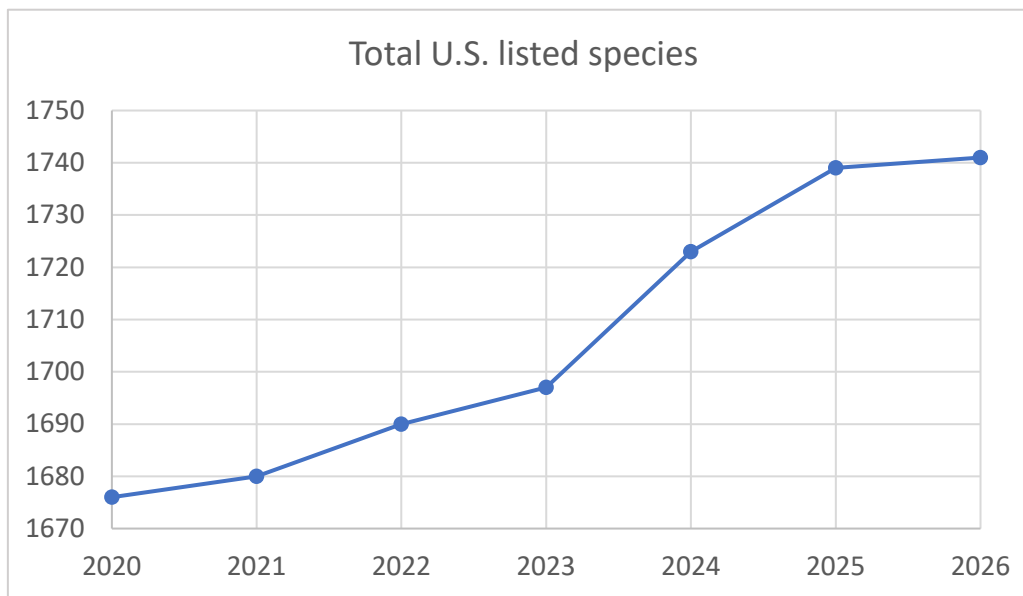
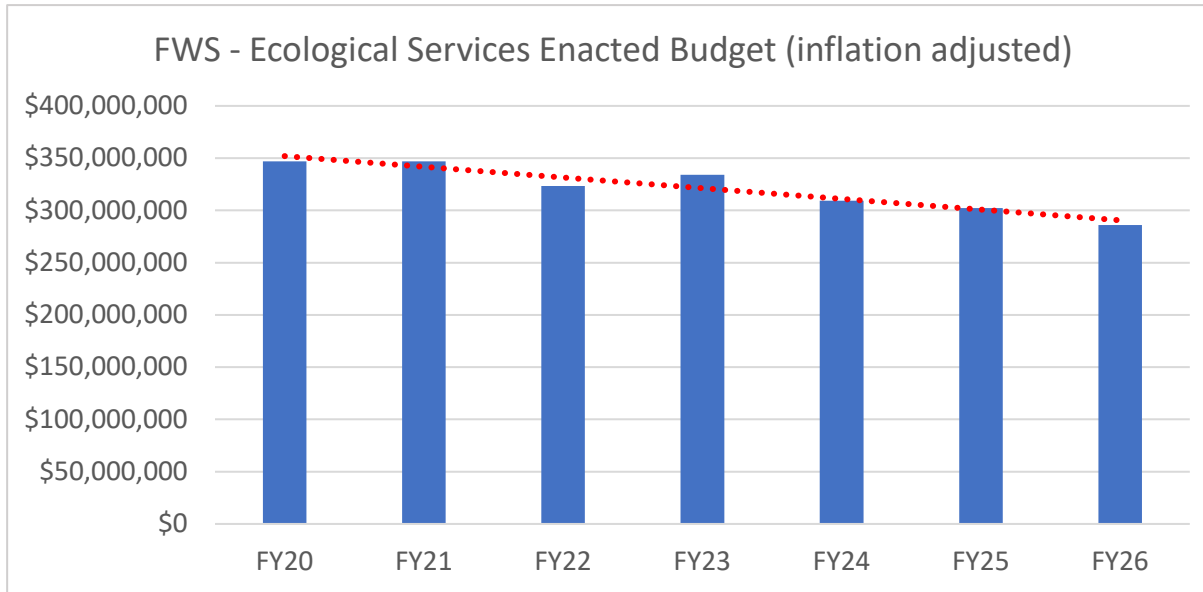
State	Bird Conservation Region	Nests	Plots	Density	SE
Wisconsin	Boreal Hardwood Transition	1635	481	3.40	4.730
Washington	Northern Pacific Rainforest	2002	612	3.27	5.635
Virginia	Southeastern Coastal Plain	473	189	2.50	4.203
Virginia	New England/Mid-Atlantic Coast	159	75	2.12	3.251
Maryland	New England/Mid-Atlantic Coast	363	200	1.82	2.624
Iowa	Prairie Hardwood Transition	129	73	1.77	2.880
Michigan	Boreal Hardwood Transition	1654	1007	1.64	2.806
Illinois	Mississippi Alluvial Valley	6	4	1.50	1.732
Florida	Peninsular Florida	1513	1105	1.37	2.799
Kentucky	Mississippi Alluvial Valley	13	11	1.18	0.982
Minnesota	Boreal Hardwood Transition	1084	937	1.16	2.165
Maine	Atlantic Northern Forest	1055	919	1.15	2.909
Pennsylvania	New England/Mid-Atlantic Coast	2	2	1.00	0.000
Oregon	Northern Pacific Rainforest	657	851	0.77	2.364
Louisiana	Mississippi Alluvial Valley	315	410	0.77	2.333
Tennessee	Mississippi Alluvial Valley	16	21	0.76	1.513
Michigan	Eastern Tallgrass Prairie	31	46	0.67	2.023
Minnesota	Prairie Hardwood Transition	273	497	0.55	1.216
Oregon	Great Basin	529	1156	0.46	2.818
Wisconsin	Prairie Hardwood Transition	446	998	0.45	1.363
Illinois	Prairie Hardwood Transition	13	32	0.41	1.012
Washington	Northern Rockies	93	242	0.38	0.996
South Carolina	Southeastern Coastal Plain	206	543	0.38	1.040
Montana	Northern Rockies	503	1596	0.32	1.012
Florida	Southeastern Coastal Plain	167	584	0.29	0.794
New Jersey	New England/Mid-Atlantic Coast	42	147	0.29	0.672
South Dakota	Eastern Tallgrass Prairie	9	33	0.27	0.944
Nevada	Sierra Nevada	2	8	0.25	0.463

Delistings

138 of 2500 species delisted (5%)



FWS Budget vs. Listings



Resources

- Current species lists

<https://ecos.fws.gov/ecp/species-reports>

- FWS ESA document library

<https://www.fws.gov/library/collections/endangered-species-act-regulations-policies-and-guidance>

- NMFS ESA regulations and policies

<https://www.fisheries.noaa.gov/topic/laws-policies#endangered-species-act>

- GAO reports on FWS

<https://www.gao.gov/agencies/united-states-fish-and-wildlife-service>

- *Endangered Species Act: Law, Policy, and Perspectives* (2021), Baur & Li

<https://www.americanbar.org/products/inv/book/413429989/>