

Readopted 4/17/13

Endangered Species Act

Colorado River Water Conservation District Policy Statements:

Congress should reauthorize the Endangered Species Act (ESA) and amend provisions of the Act to provide for better implementation that focuses on species recovery, encourages and rewards constructive and meaningful partnerships with non-federal parties, and respects private property rights including water rights. The reauthorized Act should encourage and reward programs and partnerships such as the Upper Colorado River Endangered Fish Recovery Program ("Recovery Program"), which has proven successful in making progress in species recovery, allowing continued water use and development, as well as avoiding litigation. Any reauthorization or amendment to the ESA must prioritize and reward proactive programs to prevent species listings.

Listing actions and recovery program actions must be based on sound scientific information.

Irrespective of Congressional actions or judicial interpretations, the ESA should be administered in a manner respectful of property rights and through voluntary partnerships with affected parties.

Background & Discussion:

Adopted in 1973, the ESA was designed as a law which would protect species believed to be on the brink of extinction. The bill included a sunset for the Act on October 1, 1992. Although the ESA has not been reauthorized, Congress annually appropriates funds for its implementation, keeping the Act in effect.

Unfortunately, since its inception the ESA has largely failed to achieve recovery and delisting of imperiled species. Only 40 domestic species have been "delisted" or removed from the species list since 1973 — nine due to extinction and 16 due to "data error"; the remaining species benefitted from other activities such as banning the use of certain pesticides.

The ESA is administered primarily by the U.S. Fish and Wildlife Service of the Department of the Interior and NOAA Fisheries of the Department of Commerce. Under the ESA, certain species of plants and animals (both vertebrate and invertebrate) are listed as either "endangered" or "threatened" according to assessments of the risk of their extinction. In practice, most new listings result from judicial action. Once a species is listed, powerful legal tools enforce the recovery of the species and protection of its habitat. A species may be classified "endangered" when it is in danger of extinction within the foreseeable future throughout all or a significant portion of its range. A "threatened" classification is provided to those animals and plants likely to become endangered within the foreseeable future throughout all or a significant portion of their ranges.

When the law was enacted in 1973, there were 109 species listed for protection. Today, there are over 1,300 on the list, with 250 species considered as "Candidates" for listing, and nearly 4,000

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species designated as "Species of Concern." As of 2007, Colorado had 32 species listed as endangered, including two species that no longer exist within the state, and nine candidate species.

The ESA is viewed by many in Congress as a political "third rail," despite the fact that there are many areas for improvement that traditionally opposing interests agree on. Past efforts to reauthorize the Act or even to legislate administrative improvements have met with vocal opposition; as a result none has passed.

The Upper Colorado River and the San Juan River Basin Recovery Programs are multi-agency, multi-party, public-private partnerships designed to help recover listed fish species while allowing historical water use and future water development to continue in the respective basins. Both these programs have significantly aided Colorado and surrounding states' water users in avoiding litigation and interruptions of historical water use or denials of required water development authorizations that have occurred elsewhere.

The Colorado River District has been an active partner and participant in the Upper Colorado River Recovery Program since its inception. This program has been heralded as exemplary for its continued successes. This Recovery Program, along with its sister program in the San Juan River Basin, should continue with attendant federal financial and programmatic support.