



August 3, 2009

Public Comment Processing
1018-AT50, Division of Policy and Directives Management
U.S. Fish and Wildlife Services
4401 North Fairfax Drive Suite 222
Arlington, VA 22203

Subject: Comments on potential improvements to regulations on interagency consultation under the Endangered Species Act.

The Independent Petroleum Association of America (IPAA) appreciates the opportunity to submit comments to the Department of Interior and Department of Commerce on potential improvements to regulations on interagency consultation under the Endangered Species Act. IPAA represents over 5,000 producers of domestic oil and natural gas. Independent producers drill 90% of the nation's oil wells, produce 82% of America's natural gas and 68 percent of domestically produced oil. These explorations occur both offshore and onshore. The members of IPAA that operate in and around these endangered species' habitats are very interested and invested in seeing a positive outcome from all proposed changes to the Endangered Species Act (ESA).

Oil and natural producers has always been a conscientious steward of the environment and our nation's wildlife. The ESA has played an important role in the preservation of our nation's most vulnerable and fragile animal populations. The Act has taken steps to lessen the unintended impact that economic growth has had on natural habitats. IPAA respects the intentions of the ESA and is eager to see it improved.

Unfortunately, the ESA has become a maze of red tape and bureaucratic inaction. There have been no significant changes to the law since 1988. IPAA believes there needs to be modification of the current process by implementing the lessons the federal land management agencies have learned in the last 20 years to be able to face these modern challenges in a more cost-effective and timely manner.

A 2004 Government Accountability Office (GAO) report on interagency collaboration during Section 7 consultations found that although the process had improved, relations remained combative. Changes need to be made that would empower action agencies to decide when consultation is needed from the United States Fish and Wildlife Services and National Marine Fisheries Service (Services) is an appropriate way to address the problems uncovered by the GAO study.

IPAA supports major reforms of the ESA to include modification of the consultation process, clarification of key terms in the Act, use of better science in the listing process, increased considerations of economics, improved habitat conservation planning, and compensation for the lost use of property.

Currently, the process has become weighed down with consultations taking valuable time and then rendering decisions on too many “no effect” situations and focusing on “insignificant contributors.” There needs to be recognition that routine maintenance and safety operations do not trigger consultations concerning the environmental impacts of the entire project. This practice is expensive to all parties and an extremely inefficient use of time. It increases workload and cripples available resources.

IPAA recommends language that clarifies definitions of key terms that have been too general in the past, allowing room for different interpretations and resulting in increased litigation. Also, a new timeline to set a cap for informal consultation and lend greater accountability to the process would focus the agencies on issues that need immediate attention and to submit their comments and evaluations in a timelier manner.

There need to be far greater consideration of socio-economics in all ESA land and water use decision, focusing on recovery plans. Development and implementation of recovery plans would give priority to the least socio-economic costly alternative and would require assessments of the impacts of ESA land and water use decisions on state and local economies and land values.

IPAA appreciates the opportunity to provide the Department of Interior with comments on areas of improvement to the Endangered Species Act and look forward to working with you as the Secretary considers much needed changes to the Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Russell". The signature is written in a cursive, flowing style.

Barry Russell
President & CEO