

Statement for the Record
Congressman Ken Calvert (CA-41)
House Committee on Natural Resources
Subcommittee on Water, Wildlife, and Fisheries
H.R. 872, the Federally Integrated Species Health (FISH) Act
April 11, 2023

Thank you for the opportunity to submit a Statement for the Record on H.R. 872, the Federally Integrated Species Health (FISH) ACT. The bill would consolidate the protection of fish and the regulation of waterways under the Endangered Species Act (ESA) into a single agency.

Background

In 1966, a federally appointed commission recommended the creation of a national oceanographic program. President Nixon incorporated the commission's recommendation into his Advisory Council on Executive Organization which recommended that this new agency be housed in the Department of Interior (DOI) where the Fish and Wildlife Service (FWS) is located. However, then-Secretary of Commerce, Maurice Stans—successfully argued that the program be temporarily housed in the Department of Commerce under the National Marine Fisheries Service (NMFS). Now, 57 years later, the anticipated and generally expected “more consistent realignment” of agency functions to the Department of the Interior has still not occurred.

The agency misalignment over coordinated ESA management decisions has led to numerous instances of directly contradictory federal regulatory agendas across the Pacific Northwest. For example, in 2008 and 2009, the FWS and NMFS issued new biological opinions (BiOp) for the continued joint operation of the federal Central Valley Project and the State Water Project. FWS has issued a biological opinion that considers how joint operations impact Delta Smelt, and NMFS issued a biological opinion that considers how joint operations impact anadromous species, including several species of salmon. In March 2016, despite an abundance of water in the Shasta Reservoir, NMFS called for reduced releases from Shasta Dam to 8,000 cubic feet per second (cfs) throughout the summer and into the fall to preserve cold water for Winter-run Chinook salmon. While NMFS, sought to limit releases, FWS called for *increased* releases from Shasta for the Delta Smelt during the same period. The two agencies, pursuant to their separate and uncoordinated authority under the ESA, imposed requirements that directly contradicted each other. The result of this confusion amplified the damaging effects of the drought throughout the Central Valley Project service area.

H.R. 872

H.R. 872 would consolidate the management and regulation of the ESA within the Department of Interior's U.S. Fish and Wildlife Service. The FWS primarily has responsibility for terrestrial and freshwater organisms, while the NMFS is mainly responsible for marine wildlife, such as whales, and anadromous fish, such as salmon. Currently, both FWS and NMFS have split authority over many of the *same* waterways under the ESA. This has caused differing – and even contradictory – regulations at times. The FISH Act places the regulatory authority solely within the FWS thus eliminating these types of conflicting requirements. The bill enjoys broad bipartisan support from water managers across the country, including multiple California water agencies.

Conclusion

Thank you for the opportunity to provide a statement on the bipartisan Federally Integrated Species Health Act. My office would be happy to provide any follow-up information requested by Members of the Committee. I look forward to working with the Committee to advance this bill for a vote on the House floor.