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April 4, 2025

Chairman Bruce Westerman
U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Ranking Member Jared Huffman
U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Chairman Harriet Hageman
Subcommittee on Water, Wildlife, and Fisheries
Committee on Natural Resources
Washington, DC 20515

Ranking Member Cliff Bentz
Subcommittee on Water, Wildlife, and Fisheries
Committee on Natural Resources
Washington, DC 20515

Re: March 25, 2025 Legislative Hearing on H.R. 276, H.R. 845, H.R. 1897 & H.R. 1917

Dear Chairman Westerman, Ranking Member Huffman, Chair Hageman, and Ranking Member Bentz:

The American Fisheries Society (AFS) respectfully submits the following information in response to the U.S. House of Natural Resources Committee Subcommittee on Water, Wildlife and Fisheries legislative hearing on March 25, 2025 on H.R. 276, H.R. 845, H.R. 1897 & H.R. 1917.

AFS is the world's oldest and largest professional society of fishery and aquatic scientists and managers. AFS seeks to improve the conservation and sustainability of fishery resources and aquatic ecosystems by advancing fisheries and aquatic science, promoting the development of fisheries professionals, and advocating for the use of best available science in policy-making efforts.

We write today to share our perspective on the value of the Endangered Species Act and its importance to our nation's fish and fisheries. We urge you to maintain our nation's bedrock environmental laws, including the ESA. We are also compelled to note the devastating impacts of federal workforce cuts to the appropriate management and stewardship of our nation's public trust resources.

The ESA is a powerful science-based tool for recovering America's threatened and endangered fish and wildlife. We are concerned about proposed changes to the ESA that would undermine the scientific foundations and collaborative nature of the current law. The law, as it is currently

written, has been the catalyst for successful delisting or down listing of many endangered and threatened fish. Delisting requires collaborative teams, resources, and most importantly, time for imperiled populations to recover once threats are reduced and habitat is restored. Under the current structure of the ESA and its regulations, including high levels of private, state, and federal collaboration, several species of fish have recovered sufficiently to be delisted including the Apache Trout, Okaloosa Darter, Borax Lake Chub, Foskett Speckled Dace, Modoc Sucker, and Oregon Chub (see Appendix A).

Best Available Science

Decisions regarding species recovery and delisting should be based largely on science. The best available science must guide species management. Any data that are not vetted through peer review or internal quality control from state or tribal governments does not conform to the best-available science.

Definition of Habitat

Habitat loss is one of the leading factors in species population declines in the U.S. In fact, habitat loss is estimated to impair more than 80% of known species and is the greatest single threat to species existence (Hogue and Breon 2022). In passing the ESA, Congress recognized that listed species depend on entire ecosystems. Indeed, many ESA petitions and listings have identified the loss of usable habitat or access to habitat as the reasons for the decline in species. Increases in water temperature, insufficient levels of water in streams and rivers, poor water quality, and non-native invasive species have led to the imperilment of 40% of all freshwater species (Su et al. 2021). Any definition of "habitat" must account for a wide enough variety of situations to ensure the ecosystems that support and maintain listed and vulnerable species can be conserved. A broader definition allows for more tools in the conservation 'tool box.' This flexibility is particularly important in the face of climate change. A dual approach of both protecting existing quality habitat and increasing occupiable habitat is necessary to sustain species into the future, prevent listings, and achieve delistings.

Threatened and endangered species are defined under the ESA as species likely to become endangered within the foreseeable future. The exact length of this timeframe can be mathematically predicted given enough information; however, these predictions will vary by species because of vast differences in generation times and life cycles. Sturgeon, for example, are one of the most imperiled vertebrate groups on the planet with more than a dozen of these species currently ESA listed. Some sturgeon species can live more than 100 years and may not reproduce for decades. Other species such as darters, a group only found in North America, may

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only live several years. Any effective definition of "foreseeable future" must therefore encompass biological differences between species for us to gain a greater species-specific sense of population viability and achieve delisting. A narrow definition of foreseeable future might have the unintended consequences of not allowing species with shorter generation times to be delisted when enough population information projects sustainable levels.

Likewise, the definition of critical habitat is of particular importance for fisheries management because successful conservation efforts for species protection and recovery require holistic watershed approaches (e.g., Native Fish Conservation Areas like the Little Tennessee River and Willamette River for Oregon Chub) and partnerships across state, federal, and non-profit groups and landowners. Any definition of "habitat" applicable to designating critical habitat that excludes currently unoccupied habitat would be counterproductive to delisting and would limit funding and opportunities to expand populations into those unoccupied areas and work towards recovery. Increasing healthy habitat is the key to delistings, a shared goal amongst conservationists, developers, and the general public.

Section 10(j)

Section 10(j) of the ESA governs the use of experimental populations as a conservation tool intended to aid in the recovery and long-term preservation of threatened and endangered populations. Reintroductions have helped to delist several species , e.g., several mussel species, Oregon Chub, and Okaloosa Darter, and have prevented listing of the Least Chub (Novak et al. 2021). Indeed, conventional conservation measures such as habitat restoration in a species' original range may be insufficient in the face of rapid climate change. Climate change has already caused range constrictions, shifts in suitable habitat, and increased fragmentation for many species leading to increased extinction risk (Hoegh-Guldberg et al. 2008; Chen et al., 2011). Many aquatic species cannot adapt or move in response to climate change. For those that do, their ability to cover the necessary geographical distance may be inadequate (Butt et al. 2020). With the use of best available practices, science-based guidelines, and monitoring, successful establishment of experimental populations outside of historical ranges can be a beneficial conservation tool in the face of climate change and can be beneficial for landowners.

Funding for Imperiled Species Conservation

Populations of many species are in decline and at least 40% of the nation's freshwater fish species are now rare or imperiled. With increasing habitat loss and evolving threats as a result of a changing climate, state and federal agencies will need adequate funds to address the

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biodiversity crisis. Currently, states lack the resources to address the 12,000 species of fish, wildlife, and plants that are sliding towards extinction.

AFS supports dedicated funding to states and tribes for imperiled species conservation and appropriate funding for federal agencies to recover species already listed as threatened or endangered under the ESA. Presently, with the very limited funding available through State and Tribal Wildlife Grants, states are able to focus on conservation of very few species. With adequate and dedicated conservation funding, states and tribes can implement three-quarters of every State Wildlife Action Plan, i.e., state-led, congressionally mandated, science-based blueprints for imperiled species conservation. Through actions such as reintroduction of imperiled species, conserving and restoring important habitat, and fighting invasive species and disease, states would have the ability to significantly reduce the number of species in decline and prevent these species from needing protections afforded under the ESA. Without significant funding to address these declines, many more species will qualify for protection under federal and state endangered species laws. Vulnerable species are more likely to regress to more dire conditions where regulatory actions are required, time is short, and litigation and community resistance impede recovery. Current drivers of ESA expenditures for fishes include litigation (Shirey and Colvin 2022). Increasing funding at the state level may preemptively reduce ESA costs by reducing litigation and allowing funds to be directed towards more constructive efforts such as propagation and restoration. AFS supports the Recovering America's Wildlife Act, as previously introduced in Congress, to enables science-based, state-led imperiled species conservation.

Federal Fish and Wildlife Workforce

The American Fisheries Society strongly supports retention of federal fisheries professionals who serve as the stewards of America's natural resources. The current termination of federal employees threatens the very foundation of fisheries and aquatic resources stewardship in this country and the public trust resources they manage. The continued layoffs and other attempts to reduce that workforce will erode the knowledge, skills and experience needed to manage our natural resources. This will have long-term devastating impacts on everyone who relies on public lands and waters for their livelihoods and well-being, as well as devastating an essential professional workforce for years, perhaps decades. The value this workforce brings to conservation, science, and stewarding our public trust resources cannot be overstated – all of which benefits every U.S. citizen.

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AFS stands ready to provide you with additional information should you have any questions. Thank you for your consideration.

Sincerely,

Jeff Kopaska
Executive Director

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Appendix A. Examples of successful delistings of endangered fish species.

The ESA has been a powerful science-based tool for delisting America's fish via high levels of private, state, and federal collaboration. Pertinent examples include the Borax Lake Chub, Foskett Speckled Dace, Modoc Sucker, and Oregon Chub.

The **Borax Lake Chub** is endemic to Borax Lake and was listed in 1982 and delisted in 2020. Geothermal energy development, water withdrawals, livestock grazing, and recreational vehicles threatened its habitat. After listing, habitat was protected by land leases and purchases by The Nature Conservancy from willing private landholders, cessation of irrigation diversions and livestock grazing, fencing, and passage of the Steens Mountain Cooperative Management & Protection Act, which limited private lands development in the basin (Bangs et al. 2020).

Historically widespread in off-channel habitats along the mainstem Willamette River, the **Oregon Chub** was listed in 1993 and delisted in 2015. Population declines were caused by habitat losses from channelization, dams, wetland drainage, and non-native fishes. The Oregon Department of Fish and Wildlife guided recovery along with the Oregon Chub Conservation Agreement and Oregon Chub Recovery Plan while safe-harbor agreements with private landowners and land purchases by tribal governments enabled success. Today, Oregon chub occur in 59 previously undocumented populations and 19 introduced populations; half the latter are on private property (Hughes et al. 2019).

The **Foskett Speckled Dace** was listed in 1985 and delisted in 2019. Livestock grazing and groundwater pumping threatened this fish found in a single eastern Oregon spring/wetland system. The Bureau of Land Management obtained the spring and its riparian zone via a land exchange with private landholders and livestock were excluded from most of the habitat thanks to private, state, academic, and federal participants and a Cooperative Management Plan (USFWS 2019).

The **Modoc Sucker** is endemic to the upper Pit River basin of northeastern California and southeastern Oregon. It resides in small streams that traverse nearly equal amounts of public and private lands. It was listed in 1985 because of habitat losses from livestock grazing and delisted in 2016 following riparian fencing and private/state/federal cooperative land management agreements (USFWS 2015).

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