Testimony of Lowell E. Baier

Before the Subcommittee on Interior of the Committee on Oversight and Government Reform, United States House of Representatives

"Barriers to Endangered Species Act Delisting, Part I"

April 20, 2016

Ms. Chairman and Members of the Committee, thank you for the opportunity to testify today on the challenges posed by litigation under the Endangered Species Act, and particularly on the impact of litigation on delisting. My name is Lowell E. Baier, I am an attorney in Bethesda, Maryland, and a lifelong conservationist and wildlife advocate. Thank you for giving me the opportunity to testify on this important subject.

The Endangered Species Act is often called the most important environmental law ever passed, and it is called this for both good and bad reasons. It has prevented extinctions, conserved wild landscapes, and helped perpetuate the environmental awakening of the 1960's and 1970's. It has also had undeniable negative impacts on humans, reduced the number of working landscapes in this country, and increased tensions between local and national, state and federal, and public and private interests. The guiding star of the Endangered Species Act, the rudder by which we are supposed to navigate these treacherous waters, is the expert, professional decision making of federal agencies, principally the U.S. Fish and Wildlife Service and National Marine Fisheries Service but also other land management and permit-issuing agencies.

The Obama Administration has shown great leadership in forging productive compromises, greatly expanding the use of prelisting conservation, keeping people on the land and the land supporting them and our national economy as well as imperiled species, and putting in long, painstaking hours in negotiation and coalition building. But their hands are tied by an act that is too strict in some areas and too vague in others. One of the areas where it is strict is in its citizen suit provision, which has made federal courts a venue where extreme organizations, special interests outside of the mainstream occupied by groups such as the National Wildlife Federation and the Nature Conservancy, can twist the Endangered Species Act and bend the federal government to their will. Part of their agenda is to always increase the number of species and amount of land protected under the Endangered Species Act, and so they have used the courts to oppose delisting of recovered species.

Litigation Stymies Delisting

The delisting controversy today is centered on the gray wolf, *Canis lupus*, particularly its populations in the Northern Rocky Mountains and Western Great Lakes, and the grizzly bear, *Ursus arctos horribilis*, and its population around Yellowstone National Park. These iconic species were among the first listed, and they have been the subject of intense focus and effort over a period of many decades. Since 2003, the Fish and Wildlife Service has been attempting to downlist or delist these species. For a visual representation of the difficulty of this undertaking, see figure 1 on page 9.

Northern Rocky Mountain Gray Wolf

In the case of the Northern Rocky Mountain population of gray wolf, reintroduced beginning in 1995, the official 1987 *Northern Rocky Mountain Recovery Plan* provided that the wolf would be recovered when Idaho, Montana, and Wyoming had a combined total of 300 wolves including 30 breeding pairs for three successive years. This goal was achieved in 2002 and has since been exceeded continuously. As of the Fish and Wildlife Service's December 31, 2015 report, there were at least 1,704 wolves in 282 packs with 95 breeding pairs.

For over a decade, the Fish and Wildlife Service has recognized that the population is recovered and should be delisted, and it has taken steps in that direction numerous time. At every turn, the process has been halted by litigation. In 2003, the Service first tried to establish distinct population segments for the Western (Northern Rocky Mountain) and Eastern (Western Great Lakes) populations of wolf, and downlist them from endangered to threatened. Two separate lawsuits invalidated the delisting rule. *Defenders of Wildlife v. Norton*, 354 F.Supp.2d 1156 (D. Or. 2005) and *National Wildlife Federation v. Norton*, 386 F.Supp.2d 553 (D. Vt. 2005).

The Service then initiated a series of rulemakings designating and delisting a Northern Rocky Mountain distinct population segment, an effort that continues to this day. The February 27, 2008 delisting of the population was reversed on July 18, 2008. *Defenders of Wildlife v. Hall*, 565 F. Supp. 2d 1160 (D. Mont. 2008). The April 2, 2009 delisting of the population in Montana and Idaho was reversed on August 10, 2010. *Defenders of Wildlife v. Salazar*, 729 F.Supp.2d 1207 (D. Mont. 2010). Finally, the September 10, 2012 delisting of the population in Wyoming was reversed on September 23, 2014. *Defenders of Wildlife v. Jewell*, No. 12-1833 (D. D.C. 2014). In the intervening period, Congress acted by including in the Department of Defense and Full-Year Continuing Appropriations Act of 2011 a requirement that the Fish and Wildlife Service reissue the vacated 2009 rule and prohibited further judicial review of that rule. Even this act of Congress was subjected to not one but two lawsuits, both of which failed. *Alliance for the Wild Rockies v. Salazar*, No. 11-70 (D. Mont. 2011) and *Center for Biological Diversity v. Salazar*, No. 11-71 (D. Mont. 2011).

All told, the four attempts by the Service to downlist or delist the Northern Rocky Mountain wolf and the 2011 congressional action delisting the wolf in Montana and Idaho attracted seven individual lawsuits, five of them successful. Over the years, there have also been innumerable additional suits dealing with wolf management issues beyond the scope of this testimony. But they are significant because most of them were enabled by the fact that the wolf remained listed.

Western Great Lakes Gray Wolf

The story in the Western Great Lakes has been much the same. The 1992 recovery plan called for a population of 1200-1400 in Minnesota and a separate population of 100-200 outside of Minnesota, sustained for five years. These goals were met in 2001. The latest, 2015 population estimate is 2,221 in Minnesota and a total of 1,385 individuals in two separate populations outside Minnesota. Following the two 2005 lawsuits over the 2003 downlisting of the wolf, the Fish and Wildlife Service made three separate attempts to designate and delist a Western Great Lakes Distinct Population Segment, all stymied by litigation. The February 8, 2007 delisting of the population was reversed on September 29, 2008. *Humane Society of the United States v. Kempthorne*, 579 F. Supp. 2d 7 (D. D.C. 2008). The April 2, 2009 delisting of the population was reversed by settlement on July 2, 2009, because the Service acknowledged

that it had failed to comply with notice-and-comment procedures. *United States v. Salazar*, No. 09-1092 (D. D.C. 2009). Finally, the December 28, 2011 delisting was reversed on December 19, 2014. *Humane Society of the United States v. Jewell*, No. 13-186 (D. D.C. 2014).

Yellowstone Grizzly Bear

The Yellowstone population of the grizzly bear has recently joined the gray wolf in recovered but not delisted limbo. The 1993 recovery plan called for 15 adult females with cubs occupying 16 of 18 bear management units with annual mortality not exceeding 4% of the population. These goals were met in 1998. The recovery criteria were revised in 2007 to call for at least 500 bears including 48 females with cubs in 16 of 18 bear management units with an approximately stable population since 2002. All of these criteria were met by 2004. As of 2014, there were estimated to be around 750 individual bears in the population, give or take 100.

The Fish and Wildlife Service first delisted this population on March 29, 2007, but this was reversed on September 21, 2009. *Greater Yellowstone Coalition v. Servheen*, 672 F.Supp.2d 1105 (D. Mont. 2009). Just last month, on March 11, 2016, the Service published a proposed rule that indicates that it is again considering delisting the Yellowstone population of the grizzly bear. If and when that rule becomes final, more litigation is sure to follow.

Delisting Provides Another Venue for Litigation and Relitigation of ESA Issues

Like all mandatory duties of the Secretary under Section 4 of the Endangered Species Act, delisting is subject to citizen suits in which private citizens and non-governmental organizations may file suit to either compel or prevent agency action. These citizen suits were intended to provide a check on maladministration of the Endangered Species Act, for example by intervening when the Service makes a political decision to not list or to delist a species in order to favor a special interest. Ironically, the shoe is now on the other foot and citizen suits are used to promote special interests by intervening when the Service makes a non-political, scientific decision to not list or to delist a species.

Many aspects of the Endangered Species Act are inadequately defined or outdated (the act has not been reauthorized by Congress since 1988), and this creates a fluid decision space where scientific decisions properly made by the Services rest on unclear statutory ground and are therefore subject to judicial attack. These issues are common in Endangered Species Act litigation generally, and they are applicable to delisting decisions as well as listing decisions, although listing decisions are more commonly litigated, largely because listings are so much more common than delistings.

The Endangered Species Act Favors Listing Over Delisting

In a decision that was understandable in 1973 but has proven problematic in the intervening years, Congress focused most of its work on the Endangered Species Act on the process of listing species and protecting listed species. Section 4 of the act lays out a detailed process and 5-factor test for listing species, but simply says the same factors should be evaluated in delisting, and it charges the Secretary with creating recovery plans unless such a plan will not promote the conservation of the species while broadly sketching out loose criteria for recovery plans. There is no guidance given as to how a recovery plan should be written or who should participate in the process. The result of this has been that many recovery plans are missing, incomplete, or do not map well onto the 5-factor listing test.

Accordingly, recovery plans are easy targets of opportunity for litigants, who take complex questions that often involve cutting edge science and put them in a courtroom and have a federal judge adjudicate them. The Endangered Species Act should be amended to provide a more consistent framework for delisting plans and some certainty that recovered species will be delisted – one possibility would be to tie delisting to achievement of recovery plan goals rather than the 5 listing factors. This would create an incentive for private landowners to work on recovering species, because the recovery plan would provide fixed goalposts that could not be moved after the fact by a lawsuit.

In addition, Congress should take steps to enable efficient implementation of recovery activities. For example, management actions with long-term benefits for species are often foregone because the Endangered Species Act is overly precautionary, and the potential take of an individual can override future benefits to an entire population. Management actions carried out in accordance with approved recovery plans should be exempt from Section 7 consultation and incidental take permits. Recovery plans themselves would still be subject to public scrutiny and review, so exempting actions under them from consultation and incidental take permits would simply remove redundant bureaucratic oversight and opportunities for destructive litigation.

Deadline Suits Undermine Science and Prevent Delisting

Another way in which the Endangered Species Act favors listing over delisting is its strict Section 4 deadlines for responding to listing petitions. The Endangered Species Act is devoid of criteria to guide the Fish and Wildlife Service in the prioritization of species listing petitions and species delistings, although regulations implementing the candidate species list provide criteria for prioritizing the conservation and evaluation of candidate species. In contrast, the requirement that the agency must respond to petitions within 90 days and complete status determinations for petitioned species within 12 months is enforceable by citizen suit. The effect of these impractically short deadlines is a barrage of lawsuits that whiplash the Service from one species listing to another in an ad hoc, unscientific way. Delisting can also be sought by petition but in practice is a much more measured, considered process. As such, it is not a statutory priority and too easily falls by the wayside. In addition, the ongoing gray wolf and grizzly bear litigation situations are powerful disincentives for any agency official considering another delisting.

Significant Portion of Its Range

An example of the effect of undefined terms on implementation of the Endangered Species Act comes from the phrase "a significant portion of its range" in the act's definitions of endangered and threatened species. At issue has been whether a significant portion of a species' range refers to its historic range or its present range. The two 2005 wolf cases turned, in part, on the courts holding that the Fish and Wildlife Service had impermissibly defined a significant portion of the gray wolf's range to be coterminous with its extent range. In the Yellowstone bear case, on the other hand, the court held that the Service's interpretation of a significant portion of its range was acceptable, even as it overturned the delisting on other grounds, which will be discussed shortly. This holding came despite the fact that the Service again defined a significant portion of its range to refer to current range, because in this case the Service much more rigorously explained the science behind its definition. Perhaps encouraged by this holding, the Obama Administration codified its interpretation in a July 1, 2014 rulemaking. That rulemaking, which is intended to be a basis for future listing decisions and by extension future non-listing

decisions and future delisting decisions, is in doubt due to a 2014 lawsuit that remains pending. *Center for Biological Diversity v. Jewell*, No. 14-2506 (D. Ariz. 2014). A firm, statutory definition for a significant portion of its range would put future listing and delisting determinations on stronger legal footing.

Distinct Population Segments

An issue closely related to a significant portion of its range is the recognition of distinct population segments, which was the driving force behind most of the wolf cases, and a source of endless frustration to states and the Fish and Wildlife Service. Prior to the 1996 Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act, species were only listed as threatened or endangered throughout their range. This designation is overly broad for formerly wide-ranging predators such as wolves that now exist in isolated, but thriving, populations. Wolves simply are not going to be recovered nationwide, nor should they be. They provide great ecosystem services in the comparatively wild landscapes where they remain, and by any rational measure they are successfully recovered.

But federal courts have held that the Service can only delist what it listed, that is to say that a new listable entity such as a distinct population segment cannot be created for the purpose of delisting that entity. The policy concern underlying this, that agencies might delist species that are not yet recovered by declaring all extant populations individually recovered, is reasonable, but courts have gone too far in establishing an absolute bar. In the cases of wolves, there is a broad consensus that the two populations discussed above are actually recovered and sustainable and should be delisted. The Fish and Wildlife Service clearly believes that they are recovered and should be delisted, as evidence by its repeated attempts to delist them across two administrations. As some point, the special interests that are determined to keep this species listed should yield to the expert judgment and publically vetted process of the agencies Congress charged with carrying out the Endangered Species Act.

Adequacy of Regulatory Mechanisms

Another issue, common to the 2012 delisting of the wolf in Wyoming and the 2007 delisting of the Yellowstone grizzly bear, is dissatisfaction with the regulatory mechanisms in place to protect a delisted species. In each case, a federal court held that protections were inadequate despite the presence of strong, state-led programs that had been vetted and approved by the Fish and Wildlife Service. Although there is a role for courts to play in making sure that agencies follow the law, in these cases the Fish and Wildlife Service did not receive the deference it was due. Seizing on these precedents, many of the same special interest litigators involved in the wolf and bear cases have recently filed lawsuits against the Fish and Wildlife Service for not listing the greater sage grouse and for listing the lesser prairie chicken as threatened rather than endangered. Both of these species are benefitting from unprecedented conservation efforts coordinated by states, carried out by state and private entities, vetted by the Fish and Wildlife Service, and funded by numerous stakeholders including the Natural Resources Conservation Service in the Department of Agriculture. But much of the regulatory toolbox used to conserve these and other imperiled species, including Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, Safe Harbor Agreements, and State Wildlife Action Plans, did not exist when the Endangered Species Act was last reauthorized. The Fish and Wildlife Service is thus forced to defend its reliance on these programs through regulation, with mixed results. It lost the wolf and bear cases, and while it has

mostly won a number of cases relating to grouse, chicken, and other species, a number of challenges are still pending. As prelisting conservation becomes more robust and more widely embraced, more and more decisions not to list are going to rest in part on the adequacy of regulatory mechanisms protecting the species, and the wolf and bear delisting cases are an ominous warning.

Species Listed in Error

No discussion of delisting would be complete without mentioning species listed in error. According to the Fish and Wildlife Service, 63 species have been delisted, including 34 recovered species, 10 extinct species, and 19 species listed in error. Some observers have suggested that as many as 10 of the species described as recovered may actually have been listed in error as well. Over one third and perhaps close to half of all formerly listed species still extant were listed in error. Species listed in error, including species listed due to inadequate surveys at the time of listing, have remained listed for long periods of time, in some cases for over 30 years. These missteps have consumed agency resources and eroded public confidence, and because these listings trigger Endangered Species Act protections, they provide further openings for mischievous litigation. An improved system of delisting should include expedited consideration for species listed in error.

Federal Agencies, Not Special Interest Litigants, Serve the Best Interests of Species

In years past, controversies over endangered species have been perceived as pitting Democrats against Republicans, executive agencies against Congress, the federal government against state governments, and government against landowners. This is no longer the case. Incredible progress has been made in the last decade, and a shared desire for and commitment to a better, less costly, more scientific endangered species program is shared by Congress, executive agencies, state governments, landowners, private citizens, and most environmental groups.

The outlier is a small set of fiercely dedicated and brutally effective special interest litigants that have developed the capacity to serialize endangered species litigation and grind the entire endangered species program to a halt. Their effectiveness is best illustrated by a 2011 settlement between two of them, the Center for Biological Diversity and WildEarth Guardians, and the Fish and Wildlife Service. These two groups had spent the better part of a decade inundating the Service with deadline litigation that diverted resources from actual conservation and sapped agency morale, and finally they entered into a massive settlement that established 1,559 judically enforceable deadlines covering 1,030 species, subspecies, and populations, as well as outlining the entire Fish and Wildlife Service listing agenda for five years.

The Fish and Wildlife Service entered into this settlement willingly, in order to reduce the number of listing petitions and lawsuits it faced, but in the four and a half years since the settlement was finalized, 33 separate lawsuits have been filed against the Service and other federal agencies by the two groups involved in the settlement specifically regarding species covered by the settlement, and a further 7 cases have been filed by other groups attacking the settlement. These cases are documented in figure 2 on page 10 and following. Other groups have also been filing lawsuits during this time, of course. But what is most surprising is that Fish and Wildlife Service officials readily say that the settlement is a success and has dramatically reduced the amount of litigation they face. This gives us an idea of the sheer volume of litigation they have been subjected to. The settlement expires at the end of this fiscal year, at which time

the Center for Biological Diversity and WildEarth Guardians will again be free to file as many lawsuits against the Service as they desire.

These litigators and others like them bring this incredible capacity for litigation to bear when species are being delisted. A favorite tactic is delaying delisting, as seen in the wolf and bear examples discussed above. Even when species are ultimately delisted, litigation can drag out the process and waste agency resources. For example, the Virginia northern flying squirrel was listed in 1985 when only 10 individuals were known to be alive in the wild. Surveys in the early 2000's found over 1,000 individuals and suggested a healthy population across 80% of the species' range, leading to its delisting in 2008. Even though the scientific data on this species was clear, a lawsuit returned the species to listed status until 2013. *Friends of Blackwater v. Salazar*, 772 F.Supp.2d 232 (D. D.C. 2011) (reversed on appeal: *Friends of Blackwater v. Salazar*, 691 F.3d 428 (D.C. Cir. 2012)).

Another tactic used when a species is being delisted is to push for the separate listing of a related subspecies or population, undercutting the on the ground impact of the broader delisting. One example is the iconic American bald eagle, probably our most famous recovered species. The bald eagle was downlisted from endangered to threatened in 1995 and delisted in 2007. Beginning in 2004, the Center for Biological Diversity and other groups launched a series of petitions and lawsuits to have the Sonoran desert population of the bald eagle listed as an endangered distinct population segment. The Fish and Wildlife Service agreed to consider it but found that even as a distinct population segment the so-called "desert eagle" did not warrant listing. Another example of this practice comes once again from the the gray wolf. Starting in 2009, the Center for Biological Diversity petitioned the Fish and Wildlife Service to list the Mexican gray wolf, a non-essential experimental population of gray wolf, as an endangered subspecies of gray wolf. This effort succeeded in 2015.

As these cases show, the primary instigators of endangered species litigation are opposed to any and all delisting on its face, regardless of the scientific merits. Litigation under the Endangered Species Act provides them with a weapon that they can wield without fear of reprisal. In this they are totally outside of the mainstream, not just of American society, but of some of the most dedicated environmental groups in the nation, groups like the National Wildlife Federation (which intervened in support of the government in several of the wolf delisting cases) and the Nature Conservancy (which invests hundreds of millions of dollars into conservation). That these mainstream groups support and cooperate with the Fish and Wildlife Service is evidence that that Service is doing something right. When the Service makes a species status determination or when these groups send their biologists into the field, they are carrying out real conservation. In contrast, when fringe litigants file lawsuits that delay important conservation actions and waste agency resources, they are impeding conservation.

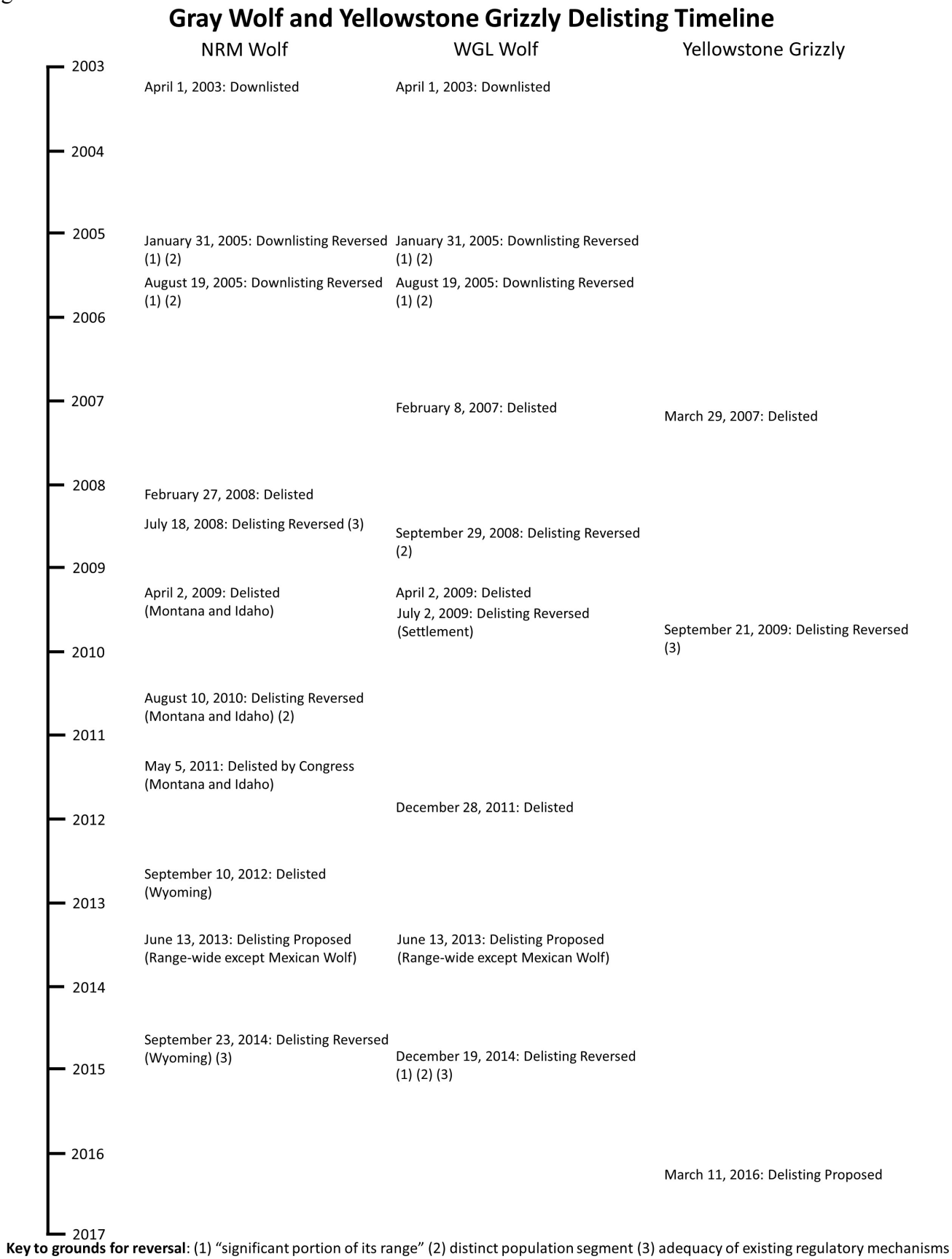
The Credibility and Future of the Endangered Species Act Are At Stake

These remarks began with the observation that the Endangered Species Act is often called the most important environmental law ever passed. What everyone needs to realize, what many Members of this Committee are undoubtedly hearing in their districts, is that success is grounded in good governance, and good governance is based on compromise. Extreme litigants have made it clear that they will not compromise, and as currently written and interpreted by courts, the Endangered Species Act is a tool that they can use to undermine compromise. If we cannot compromise on difficult issues such as endangered species, if our public discourse continues to become more polarized, we will find ourselves on a path to lawlessness as the

Endangered Species Act ultimately becomes unenforceable. At that point, we will lose all of the good things that this magnificent law has accomplished. And if we cannot compromise on delisting, if we cannot come together, leave the courthouse, and celebrate as we watch bald eagles soar and hear wolves howling beyond our campfires, then where can we compromise?

Thank you for the opportunity to testify today.

Figure 1



Key to grounds for reversal: (1) "significant portion of its range" (2) distinct population segment (3) adequacy of existing regulatory mechanisms

Figure 2

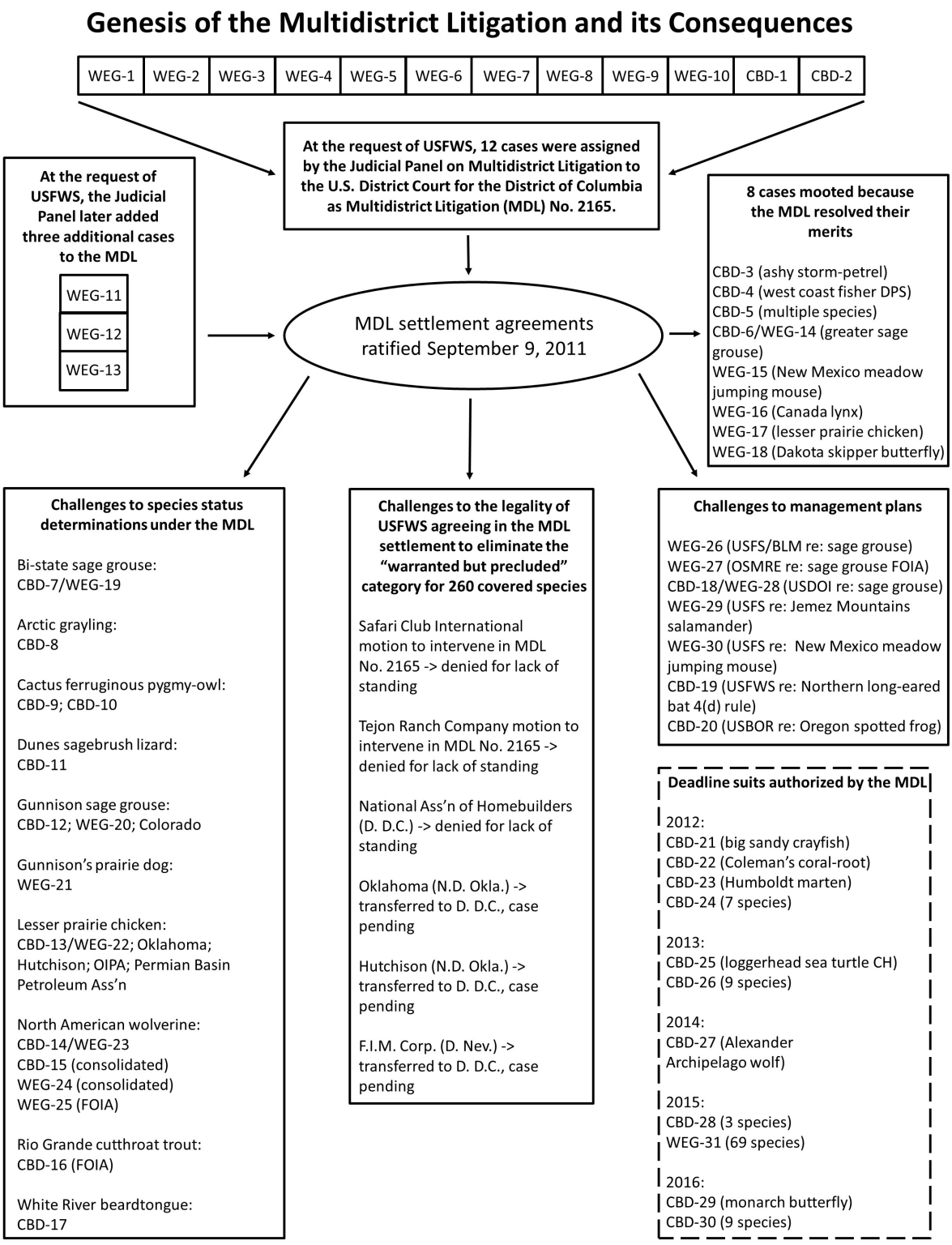

Genesis of the Multidistrict Litigation and its Consequences
WEG-1
WEG-2
WEG-3
WEG-4
WEG-5
WEG-6
WEG-7
WEG-8
WEG-9
WEG-10
CBD-1
CBD-2
At the request of USFWS, 12 cases were assigned by the Judicial Panel on Multidistrict Litigation to the U.S. District Court for the District of Columbia as Multidistrict Litigation (MDL) No. 2165.
At the request of USFWS, the Judicial Panel later added three additional cases to the MDL
WEG-11
WEG-12
WEG-13
MDL settlement agreements ratified September 9, 2011
8 cases mooted because the MDL resolved their merits
CBD-3 (ashy storm-petrel)
CBD-4 (west coast fisher DPS)
CBD-5 (multiple species)
CBD-6/WEG-14 (greater sage grouse)
WEG-15 (New Mexico meadow jumping mouse)
WEG-16 (Canada lynx)
WEG-17 (lesser prairie chicken)
WEG-18 (Dakota skipper butterfly)
Challenges to species status determinations under the MDL
Bi-state sage grouse:
CBD-7/WEG-19
Arctic grayling:
CBD-8
Cactus ferruginous pygmy-owl:
CBD-9; CBD-10
Dunes sagebrush lizard:
CBD-11
Gunnison sage grouse:
CBD-12; WEG-20; Colorado
Gunnison's prairie dog:
WEG-21
Lesser prairie chicken:
CBD-13/WEG-22; Oklahoma; Hutchison; OIPA; Permian Basin Petroleum Ass'n
North American wolverine:
CBD-14/WEG-23
CBD-15 (consolidated)
WEG-24 (consolidated)
WEG-25 (FOIA)
Rio Grande cutthroat trout:
CBD-16 (FOIA)
White River beardtongue:
CBD-17
Challenges to the legality of USFWS agreeing in the MDL settlement to eliminate the "warranted but precluded" category for 260 covered species
Safari Club International motion to intervene in MDL No. 2165 -> denied for lack of standing
Tejon Ranch Company motion to intervene in MDL No. 2165 -> denied for lack of standing
National Ass'n of Homebuilders (D. D.C.) -> denied for lack of standing
Oklahoma (N.D. Okla.) -> transferred to D. D.C., case pending
Hutchison (N.D. Okla.) -> transferred to D. D.C., case pending
F.I.M. Corp. (D. Nev.) -> transferred to D. D.C., case pending
Challenges to management plans
WEG-26 (USFS/BLM re: sage grouse)
WEG-27 (OSMRE re: sage grouse FOIA)
CBD-18/WEG-28 (USDOI re: sage grouse)
WEG-29 (USFS re: Jemez Mountains salamander)
WEG-30 (USFS re: New Mexico meadow jumping mouse)
CBD-19 (USFWS re: Northern long-eared bat 4(d) rule)
CBD-20 (USBOR re: Oregon spotted frog)
Deadline suits authorized by the MDL
2012:
CBD-21 (big sandy crayfish)
CBD-22 (Coleman's coral-root)
CBD-23 (Humboldt marten)
CBD-24 (7 species)
2013:
CBD-25 (loggerhead sea turtle CH)
CBD-26 (9 species)
2014:
CBD-27 (Alexander Archipelago wolf)
2015:
CBD-28 (3 species)
WEG-31 (69 species)
2016:
CBD-29 (monarch butterfly)
CBD-30 (9 species)

Table of Cases

CBD-1: Center for Biological Diversity v. Salazar, No. 1:10-149 (D. D.C. 2010) (Mexican gray wolf)
CBD-2: Center for Biological Diversity v. Salazar, No. 1:10-230 (D. D.C. 2010) (eight species)
CBD-3: Center for Biological Diversity v. Salazar, No. 10-4861 (N.D. Cal. 2010) (ashy storm-petrel)
CBD-4: Center for Biological Diversity v. Salazar, No. 3:10-cv-01501-JCS (N.D. Cal. 2010) (west coast fisher DPS)
CBD-5: Biodiversity Conservation Alliance v. Kempthorne, No. 04-2026 (D.D.C. 2004) (multiple candidate species in 2006 CNOR)
CBD-6: Western Watersheds Project v. Salazar, No. 4:10-229 (D. Idaho 2010) (greater sage grouse)
CBD-7: Desert Survivors v. U.S. Department of the Interior, No. 3:16-cv-01165-JCS (N.D. Cal. 2016) (Bi-State sage grouse DPS)
CBD-8: Center for Biological Diversity v. Jewell, No. 2:15−cv−00004−SHE (D. Mont. 2015) (arctic grayling)
CBD-9: Center for Biological Diversity v. Salazar, No. 4:12-cv-00627-CKJ (D. Ariz. 2012) (cactus ferruginous pygmy-owl)
CBD-10: Center for Biological Diversity v. Jewell, No. 4:14−cv−02506−RM (D. Ariz. 2014) (cactus ferruginous pygmy-owl)
CBD-11: Defenders of Wildlife v. Jewell, No. 1:13-cv-00919-RC (D. D.C. 2013) (dunes sagebrush lizard)
CBD-12: Center for Biological Diversity v. U.S. Fish and Wildlife Service, No. 1:15−cv−00130−JLK (D. Colo. 2015) (Gunn. sage grouse)
CBD-13: Defenders of Wildlife v. Jewell, No. 4:14−cv−00721−JHP−PJC (N.D. Okla. 2014) (lesser prairie chicken)
CBD-14: Defenders of Wildlife v. Jewell, No. 9:14−cv−00246−DLC (D. Mont. 2014) (North American wolverine)
CBD-15: Center for Biological Diversity v. Jewell, No. 9:14−cv−00247−DLC (D. Mont. 2014) (N. Am. wolverine consolidated)
CBD-16: Center for Biological Diversity v. Jewell, No. 1:15-cv-01259-WJM-KLM (D. Colo 2015) (Rio Grande cutthroat trout FOIA)
CBD-17: Rocky Mountain Wild v. Walsh, No. 1:15-cv-00615-WJM (D. Colo. 2015) (White River beardtongue)
CBD-18: Western Watersheds Project v. Schneider, No. 1:16-cv-00083-EJL (D. Idaho 2016) (greater sage grouse impact)
CBD-19: Center for Biological Diversity v. Ashe, No. 1:15-cv-00477-EGS (D. D.C. 2015) (Northern long-eared bat 4(d) Rule)
CBD-20: Center for Biological Diversity v. U.S. Bureau of Reclamation, No. 6:15-cv-02358-JR (D. Or. 2015) (Oregon spotted frog impact)
CBD-21: Center for Biological Diversity v. Salazar, No. 1:12-cv-00861-EGS (D. D.C. 2012) (big sandy crayfish)
CBD-22: Center for Biological Diversity v. Salazar, No. 1:12-cv-01073-EGS (D. D.C. 2012) (Coleman's coral-root)
CBD-23: Center for Biological Diversity v. Salazar, No. 1:12-cv-01091-EGS (D. D.C. 2012) (Humboldt marten)
CBD-24: Center for Biological Diversity v. Salazar, No. 1:12-cv-01514-EGS (D.D.C. 2012) (7 species)
CBD-25: Center for Biological Diversity v. Blank, No. 3:13−cv−00086−NC (N.D. Cal. 2013) (loggerhead sea turtle CH)
CBD-26: Center for Biological Diversity v. Jewell, No. 1:13-cv-00975-EGS (D. D.C. 2013) (9 species)
CBD-27: Center for Biological Diversity v. Jewell, No. 1:14-cv-00991-EGS (D. D.C. 2014) (Alexander Archipelago wolf)
CBD-28: Center for Biological Diversity v. Jewell, No. 1:15-cv-00229-EGS (D. D.C. 2015) (3 species)
CBD-29: Center for Food Safety v. Jewell, No. 4:16-cv-00145-JGZ (D. Ariz 2016) (monarch butterfly)
CBD-30: Center for Biological Diversity v. Jewell, No. 1:16-cv-00503-EGS (D. D.C. 2016) (9 species)
WEG-1: WildEarth Guardians v. Salazar, No. 1:09-2990 (D. Colo. 2009) (Fremont County rockcress)
WEG-2: WildEarth Guardians v. Salazar, No. 1:09-2997 (D. Colo. 2009) (mist forestfly)
WEG-3: WildEarth Guardians v. Salazar, No. 1:10-57 (D. Colo. 2010) (Platte River caddisfly)
WEG-4: WildEarth Guardians v. Salazar, No. 1:10-169 (D. Colo. 2010) (Pipe Springs cryptantha)
WEG-5: WildEarth Guardians v. Salazar, No. 1:10-256 (D. Colo. 2010) (Yellowstone sand verbena)
WEG-6: WildEarth Guardians v. Salazar, No. 1:10-263 (D. Colo. 2010) (pale blue-eyed grass)
WEG-7: WildEarth Guardians v. Salazar, No. 1:10-48 (D. D.C. 2010) (frigid ambersnail)
WEG-8: WildEarth Guardians v. Salazar, No. 1:10-421 (D. D.C. 2010) (three freshwater springsnails)
WEG-9: WildEarth Guardians v. Salazar, No. 3:10-53 (D. Nev. 2010) (northern leatherside chub)
WEG-10: WildEarth Guardians v. Salazar, No. 6:10-122 (D. N.M. 2010) (Wright's marsh thistle)
WEG-11: WildEarth Guardians v. Salazar, No. 10-03366 (S.D. Tex. 2010) (nine species of mollusks)
WEG-12: WildEarth Guardians v. Salazar, No. 10-02299 (D. Ariz. 2010) (Mexican wolf)
WEG-13: WildEarth Guardians v. Salazar, No. 10-02595 (D. Colo. 2010) (Gila monster Utah population)
WEG-14: Western Watersheds Project v. Salazar, No. 4:10-229 (D. Idaho 2010) (greater sage grouse)
WEG-15: WildEarth Guardians v. Salazar, No. 4:10-420 (D. Ariz. 2010) (New Mexico meadow jumping mouse)
WEG-16: WildEarth Guardians v. Guertin, No. 1:10-1959 (D. Colo. 2010) (Canada lynx)
WEG-17: WildEarth Guardians v. Salazar, No. 1:10-2129 (D. Colo. 2010) (lesser prairie chicken)
WEG-18: Biodiversity Conservation Alliance v. Kempthorne, No. 04-2026 (D. D.C. 2004) (Dakota skipper butterfly)
WEG-19: Desert Survivors v. U.S. Department of the Interior, No. 3:16-cv-01165-JCS (N.D. Cal. 2016) (Bi-State sage grouse DPS)
WEG-20: WildEarth Guardians v. Ashe, No. 1:15−cv−00131−JLK (D. Colo. 2015) (Gunnison sage grouse)
WEG-21: WildEarth Guardians v. Jewell, No. 2:14-cv-00833-MHB (D. Ariz. 2014) (Gunnison's prairie dog)
WEG-22: Defenders of Wildlife v. Jewell, No. 4:14−cv−00721−JHP−PJC (N.D. Okla. 2014) (lesser prairie chicken)
WEG-23: Defenders of Wildlife v. Jewell, No. 9:14−cv−00246−DLC (D. Mont. 2014) (North American wolverine)

WEG-24: Wildearth Guardians v. Jewell, No. 9:14−cv−00250−DLC (D. Mont. 2014) (N. Am. wolverine consolidated)
WEG-25: WildEarth Guardians v. U.S. Fish and Wildlife Service, No. 1:14-cv-01828-RMC (D. D.C. 2014) (N. Am. wolverine FOIA)
WEG-26: WildEarth Guardians v. U. S. Forest Service, No. 2:14−cv−00349−DN (D. Utah 2014) (greater sage grouse impact)
WEG-27: WildEarth Guardians v. Offices of Surface Mining Reclamation and Enforcement, No. 1:15-cv-00323-RC (D. D.C. 2015) (greater sage grouse impact FOIA)
WEG-28: Western Watersheds Project v. Schneider, No. 1:16-cv-00083-EJL (D. Idaho 2016) (greater sage grouse impact)
WEG-29: WildEarth Guardians v. U. S. Forest Service, No. 1:14−cv−00828−MV−KK (D. N.M. 2014) (Jemez Mount. salamander impact)
WEG-30: WildEarth Guardians v. Tidwell, No. 1:14−cv−00887−KK−WPL (D. N.M. 2014) (New Mexico meadow jumping mouse impact)
WEG-31: WildEarth Guardians v. Jewell, No. 1:15-cv-02173-EGS (D. D.C. 2015) (69 species)
Colorado v. U.S. Fish and Wildlife Service, No. 1:15-cv-00286-JLK (D. Colo. 2015) (Gunnison sage grouse)
Oklahoma v. Dep't of Interior, No. 1:15-cv-00252-EGS (D. D.C. 2015) (MDL and lesser prairie chicken)
Hutchison v. Dep't of Interior, No. 1:15−cv−00253-EGS (D. D.C. 2015) (MDL and lesser prairie chicken)
OIPA v. Dep't of Interior, No. 14-cv-307 (JHP) (N.D. Okla. 2014) (lesser prairie chicken)
Permian Basin Petroleum Ass'n v. Dep't of Interior, No. 14-cv-0050 (RAJ) (W.D. Tex. 2014) (lesser prairie chicken)
National Ass'n of Homebuilders v. Salazar, No. 1:12-cv-02013 (D. D.C. 2013) (MDL)
F.I.M. Corp. v. Dep't of Interior, No. 1:15-cv-00897-EGS (D. D.C. 2015) (MDL)