



**RESOLUTION 2019-05
RULES RELATED TO THE DESIGNATION OF CRITICAL HABITAT
UNDER THE ENDANGERED SPECIES ACT**

Whereas, the Western States Land Commissioners Association (“WSLCA”) and its member states manage over 515 million acres of trust lands, minerals, and waterways; and

Whereas, members of WSLCA have state constitutional mandates to manage millions of acres of lands for economic development, public education, conservation, recreation, and other public purposes provided by state law; and

Whereas, revisions to the regulations and policies governing administration of the Endangered Species Act (ESA) issued in February of 2016 have fundamentally changed the United States Fish & Wildlife Service’s and National Marine Fisheries Service’s (collectively “the Listing Services”) implementation of the ESA; and,

Whereas, these revisions include a final rule defining the term “destruction or adverse modification,” a final rule governing impact analyses of critical habitat, and a final rule implementing changes to the designation of critical habitat; and,

Whereas, the revisions to the regulations and policies governing administration of the ESA remove important, and statutorily mandated, restraints on the Listing Services’ ability to designate areas as critical habitat; and,

Whereas, in promulgating these revisions, the Listing Services are impermissibly eliminating all meaningful consideration of the economic impact of critical habitat designations, their prudence or necessity for management or recovery, or even the presence of protected species within the designation; and,

Whereas, the designation of critical habitat for species has numerous negative consequences for landowners and state trust lands, including creating a patchwork of regulatory requirements that inhibits leasing, increases costs, creates operational delays, and often a loss of access to state trust lands; and,

Whereas, critical habitat designations have increased on both number and size, with the largest recent designations totaling tens of thousands of acres each; and,

Whereas, the number of species being listed as threatened or endangered, and thus requiring designation of critical habitat, has risen over the past several years; and,


Whereas, a designation of critical habitat will likely have a significant negative economic impact on state trust lands and public lands held by the member states of the WSLCA; and,


Whereas, a diminution of value and reduction of income from state trust lands and public lands would negatively impact the beneficiaries of these lands, such as public school children and other worthy beneficiaries.

BE IT THEREFORE RESOLVED AS FOLLOWS:

1. The WSLCA requests that the Listing Services under President Trump rescind the critical habitat rules as discussed above and issue new Critical Habitat Rules that conform with the ESA, Congressional intent, incorporates consideration of impacts on the ability of States to effectively manage trust assets, and is broadly supported by Western States Land Commissioners Association member states.
2. The WSLCA respectfully requests the United States Congress resolve the growing contemptible and unintended outcomes of ESA-related decisions and actions by the U.S. Department of Interior by establishing an ESA Congressional Oversight Committee commensurate with ESA decisional impacts, and that it shall conduct an investigative analysis, hold public hearings on its findings for purposes of amending the ESA and associated rules by the year 2020.

Adopted this 31st day of July, 2019.


President, WSLCA


Secretary, WSLCA

*This Resolution will remain in effect through July 31, 2021
unless otherwise terminated, amended, or replaced by the Association.*