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September 24, 2018

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WLF Urges Federal Government to Assess Economic Impacts When Designating Endangered Species and Their Critical Habitat

(In re Endangered Species Act Listings)

“Environmental agencies cannot continue carrying out Endangered Species Act requirements while ignoring the economic impacts of their decisions. Requiring the agencies to assess such impacts of their species-listing decisions will increase transparency in critical-habitat designations.”

—Marc B. Robertson, WLF Staff Attorney

WASHINGTON, DC—Washington Legal Foundation (WLF) today filed formal comments with the Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively, the “Services”) in support of proposed rules that would affect listing requirements and critical habitat designations. WLF’s comments urge the Services to adopt a policy that requires all listing, delisting, or reclassification decisions include an explicit economic impact assessment of those decisions. WLF also supports new regulations that would require the agencies to make listing decisions on the basis of reliable evidence rather than loose predictions about the future.

The current language of the Endangered Species Act (ESA) requires the services to make listing determinations based “solely on the basis of the best scientific and commercial data available.” These decisions are to be made “without reference to possible economic or other impacts of such determination.” Yet when the Services make critical habitat designations in order to protect threatened and endangered species, they must account for the economic impact of the designations. Considering the costs and presenting them to the public at the time of listing will help ensure transparency in the process as well as ensure that critical habitat designations are undertaken in an economically rational manner, WLF argues.

WLF’s comments stress the importance of cost-benefit assessment in the development of regulations regardless of whether those assessments are dispositive in the final agency decision. Providing access to economic impact information will foster predictability in the regulatory process, providing clarity to stakeholders directly affected by these decisions, WLF argues.

Celebrating its 41st year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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