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American Fisheries Society Urges Department of the Interior to Reconsider Proposed Endangered Species Act Rules Changes

On August 29, 2008, the American Fisheries Society sent a letter to Department of the Interior Secretary Dirk Kempthorne urging the department to reconsider proposed rules changes that would allow any federal agency to decide for itself whether protected species would be threatened by agency projects. Many of these agencies do not have significant biological expertise and often have clear conflicts of interest with the protection of species.

The American Fisheries Society, a group representing 9,000 fisheries scientists and managers, regards these proposed changes to the Endangered Species Act (ESA) as running counter to a long tradition of scientific peer review that has worked to ensure the integrity of scientific opinion and, consequently, provided guidelines for the protection of the most vulnerable animals and plants in our environment. This tradition is also clearly embedded in the legal and governmental history of the United States. Diluting the processes by which scientific opinion is formulated, by short-circuiting the peer review process, will result in reduced protection for species often critical to ecosystem integrity. Removing independent reviews increases the burden on federal agencies and opens the door to unnecessary court challenges that will ultimately result in more work for these agencies.

In addition, the proposed regulations contain provisions to limit the use of the Endangered Species Act in addressing climate change. They state that federal actions related to projects that emit global warming pollution, such as permitting of a power plant or leasing of oil drilling rights, do not require review "because it is not possible to link the emissions to impacts on specific listed species such as polar bears."

That proposal greatly dilutes the use of the ESA in regulating thermal discharges and greenhouse gases, and sets a dangerous precedent for two reasons. First, it declares that there is no link between emissions and impacts, when in fact environmental scientists are convinced that greenhouse gas emissions raise air and water temperatures, thereby reducing the extent and duration of ice cover, which reduces polar bear feeding opportunities through seal breathing holes while increasing bear metabolic demands from increased swimming. Second, it sets a dangerous precedent for the ESA and other laws and regulations by declaring no linkage when that linkage, which may be complex, is clearly established through cause-effect, mechanistic, and spatially extensive statistical studies. If previous administrations had used that same logic, there would have been no linkage (or regulation) of sulfur and nitrogen emissions from power plants, acidification of surface waters, and loss of acid-sensitive fish and other aquatic species. We would have had acidic, fishless lakes and streams throughout the nation rather the relatively healthy waters existing today.

The AFS urges the Department of Interior to reconsider these proposed changes and to keep the independent review system intact.