



ASSOCIATION *of*  
FISH & WILDLIFE  
AGENCIES

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**THREATENED & ENDANGERED SPECIES POLICY COMMITTEE**

**Chair: Nick Wiley (FL)**

**Vice-Chair: Chuck Bonham (CA)**

**Friday, March 18, 2016**

**8:00 am to 12:00 pm**

**81<sup>st</sup> North American Wildlife and Natural Resources Conference**

**Room: Ballroom 3 / Wyndham Grand hotel**

**Pittsburgh, PA**

**Agenda**

- 8:00 am Call to order, introductions and agenda modifications – Nick Wiley, Chair
- 8:05 Monarch Butterflies: Conservation Actions & Update - Jonathan Mawdsley, AFWA
- 8:10 Update: Five-year status review of Canada lynx - Jonathan Mawdsley, AFWA
- 8:15 Legislative Issues and Update – Jen Mock Schaeffer, AFWA
- Congressional legislation
  - Update on AFWA's Blue Ribbon Panel
  - AFWA thoughts on improving ESA implementation
- 9.15 New emerging conservation concerns: plants – Director Greg Sheehan (UT)
- 9.35 Committee Business
- Discussion: draft charter for a revised working group on ESA & Climate Change – Becky Gwynn (VA), Jen Mock Schaeffer & Davia Palmeri, AFWA
  - Review and discuss the Committee's work in addressing AFWA's Strategic Plan - Nick Wiley, Chair & Jen Mock Schaeffer, AFWA
  - Other
- 10:00 Health Break
- 10:15 Federal Agency Reports & Discussion
- USFWS
  - NOAA
  - BLM
  - USFS
  - NPS
  - Others

- 11:00 Update: Work of the ESA State/Federal Joint Task Force - Nick Wiley, Chair
- 11:10 Update from DoD by Peter Boice: subject TBD
- 11:25 Review of Discussion with Syngenta from the Agriculture Conservation Committee (see attachment to this agenda) -- Jen Mock Schaeffer, AFWA
- 11:35 State Round Table Discussion
- 11:55 Closing Discussion and Action Items
- 12:00 Adjourn

*Committee Charge:*

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- *Review procedural or categorical problems affecting threatened and endangered species listings and de-listing and critical habitat proposals as reported in the Federal Register and suggest appropriate action.*
  - *Keep abreast of legislative proposals and oversight hearings and recommend Association involvement.*
  - *Maintain active liaison with appropriate federal agency offices, the conservation community, states and regional associations.*
  - *Serve as the subject matter and support group on endangered species that are covered by CITES or other international arrangements.*
  - *Subcommittees and Working Groups: ESA and Climate Change Working Group*
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# Endangered Species Act (ESA) – Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) Consultation Process

## PESTICIDE NET CONSERVATION BENEFITS CONCEPT

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**Date:** 1pm ET, March 16, 2016 at the NAWNRC in Pittsburgh, PA  
**For:** Association of Fish and Wildlife Agencies, Agriculture Conservation Committee and Threatened and Endangered Species Policy Committee

**Proposal:** Piloting Multifunctional Net Conservation Habitat for Listed Species and Monarchs, Starting in 2016 Growing Season, For Purposes of FIFRA Consultations under ESA and Under Presidential Memoranda on Ecosystem Services and on Net Conservation Benefit programs

**Why?** Ensuring choice and access to innovative products necessary for producers to maintain an abundant food supply is essential for agriculture to move forward in the 21<sup>st</sup> century. Providing these products to farmers has become increasingly difficult because of ESA consultation issues in the FIFRA registration review process. The resources spent on process issues could better serve the needs of the environment and of producers, and we invite you to help us set a new course by participating in a pilot project that attempts to chart a practical path that more timely gets products into the hands of producers while positively impacting species. In doing so, we hope to engage with you to understand what will be needed to expand these ideas nationwide, as scale and scope concerns in the review process have been daunting. Syngenta has been meeting with a diverse group of agriculture, conservations and species experts to explore possible approaches going forward. We seek to benefit producers *and* threatened and endangered species via proactive efforts we will outline with you as part of this pilot.

We hope you saw the two recent Presidential Memoranda.<sup>1</sup> In particular, the No Net Loss Net Benefit guidance (released on Nov. 3) provides a strong framework for our idea for a conservation pilot for monarchs and listed species in the FIFRA/ESA consultation process. Our goal is to fund and conduct a small-scale pilot to test such a net conservation benefit program in this context. The purpose of us meeting with you is to provide the background and context for this approach, and to brainstorm what you think such a pilot should look like.

We would like to explore the following areas:

- Species of the pilot
- Crop and/or set of crop protection practices and/or AI's of a pilot
- How to quantify potential impacts
- What types of conservation measures, existing programs, new public/private partnerships, new measures/funds, or other activities do we envision
- How these approaches will achieve compliance with ESA
- How the pilot program will translate/scale up/quantify feasibility on a national scale
- Plans for the small workgroup to develop the pilot

### Background Information

Enacted in 1973, the ESA is intended to protect animals and plants determined to be endangered or threatened with extinction. The U.S. Fish and Wildlife Services (FWS) and National Marine Services (NMFS) (collectively, the Services) administer the ESA, and all federal agencies are required to ensure their actions will not jeopardize the continued existence of any species with listed status.

Pesticide registration is one of the actions subject to the ESA: in compliance with Section 7 of the ESA, EPA must ensure that use of the pesticides it registers under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) will not harm these species. Under FIFRA, EPA Office of Pesticide Programs registers (permits) pesticides after a thorough evaluation and review of extensive scientific data set as

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<sup>1</sup>Incorporating Ecosystem Services into Federal Decision Making. (October 7, 2015). <https://www.whitehouse.gov/blog/2015/10/07/incorporating-natural-infrastructure-and-ecosystem-services-federal-decision-making>. Presidential Memorandum: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment. (November 23, 2015). <https://www.whitehouse.gov/the-press-office/2015/11/03/mitigating-impacts-natural-resources-development-and-encouraging-related>.

required by Congress. Initial permitting takes years and >200 scientific studies; all pesticides are re-registered every 15 years on rolling cycle. This translates to EPA conducting comprehensive reviews of thousands of environmental and human health studies on more than 900 active ingredients used in more than 19,000 formulated products registered under FIFRA.

Previous counterpart regulations that provided a workable process for pesticide consultations between EPA and the Services were partially struck down under legal challenge of the federal government. As a result, EPA and the Services are currently attempting to chart a workable process for consultation under ESA, which has been a daunting task given scientific, procedural and scope. In some cases, pesticide registration actions may be subject to duplicative review of environmental risk without any added benefit to threatened or endangered species and major delays in access to innovation for America's agricultural producers. The additional review and legal wrangling relating to respective obligations under ESA and FIFRA place added burdens on tightened government resources.

### **Summary**

- Before any plant protection product is brought to market, it is thoroughly tested to characterize its environmental fate and the potential for effects on human health and the environment including threatened and endangered species, supporting rigorous EPA registration reviews.
- The judicious use of crop protection products enables us to grow more food on less land. This directly benefits endangered and threatened species since it affords farmers and ranchers the opportunity to conserve more land while at the same time increasing food production, thereby expanding critical habitat essential for species recovery.
- We support environmental habitat policies that promote the potential of endangered and threatened species recovery while supporting the ability of farmers to produce food, fiber and fuel for a growing global population.
- We believe ESA assessments and registration decisions must be based on the use of the best available science and information.
- The ESA consultation process for pesticide registration actions between EPA and the Services needs to include the practicality as envisioned by recent presidential memoranda and other actions taken by federal agencies with the Services.
- The ESA consultation process should not include a duplicative ecological risk assessment conducted by different government bodies if the action agency, in this case EPA, makes a determination on best available science.