

H.R. 6360, the PREDICTS Act

Rep. Ralph Norman (SC-05)

Codify the Clinton Admin's 'No Surprises' Species Conservation Regulation

Robust species conservation can readily coexist with project permitting and development

Dear Colleague:

Despite the inflamed rhetoric of partisans on either side, robust, effective species conservation can readily coexist with project permitting and economic development. Problems in this area don't arise from real, practical impediments to achieving both goals, but rather due to the success of partisans who manage to secure one too-extreme outcome or the other.

Perhaps no better example of this exists than the one provided with Habitat Conservation Plans (HCPs) developed and implemented under the Endangered Species Act. HCPs are comprehensive planning documents created collaboratively between Fish and Wildlife or National Marine Fisheries and a person, government or corporation pursuing permitting and development for a project which is likely to result in listed species takings. To be approved, these plans normally require incidental take permit applicants to identify all anticipatable ways in which a project and its operations may result in species takings, and successfully account for them through mitigation, remediation and compensation.

In certain cases, however, agencies responsible for species conservation realize that they aren't doing as great a job as they might like to recover a species, and may seek to compensate for their own failings by attempting to retroactively alter agreements despite an incidental take permit already having been issued and abided by. This blame-shifting approach can make sense if your goal is to shift blame, but doing so in fact punishes the only people in the situation upholding their responsibilities.

The failing in these cases lies with the agencies tasked with range-wide species conservation – not with the individual permit holders that are faithfully implementing the stringent conservation terms that they agreed to.

Recognizing this fact, the Clinton Administration promulgated a regulation known as 'No Surprises', which simply maintains that it is improper to foist new mandates on entities that are already faithfully and effectively implementing previously-agreed to HCPs in order to compensate for agency failings. While HCPs are relatively well known, Candidate Conservation Agreements with Assurances and Safe Harbor Agreements are two other existing programs established by federal agency handbooks that encourage voluntary species conservation and investment in exchange for certainty.

This simple bill aims to codify the requirements for "No Surprises," Candidate Conservation Agreements with Assurances and Safe Harbor Agreements currently found in agency regulations in order to provide certainty and reward the good behavior of public and private entities that faithfully uphold their agreements in order to help recover listed species.

We hope you will cosponsor this bill in order to send a clear signal that Congress is unified in rejecting partisan extremism and instead presents the simple proposition, embodied in this legislation, that the principles of species conservation and economic development are ultimately harmonious rather than antithetical.

With questions or to cosponsor, contact meghan.holland@mail.house.gov (Norman) and jeff.small@mail.house.gov (Western Caucus).

Sincerely,

Ralph Norman
Member of Congress

Paul A. Gosar, D.D.S.
Member of Congress