

03/07/2014

Pryor, Arkansas Stakeholders Push Back on Critical Habitat Designation

Call for common-sense approach to protect Arkansas's economy

WASHINGTON D.C. -U.S. Senator Mark Pryor introduced common-sense legislation to ensure the U.S. Fish and Wildlife Service (FWS) takes into account the full economic impact of proposed critical habitat designations.

Pryor's bill, the Community Protection Act, is supported by a large coalition of Arkansas stakeholders, including the Association of Arkansas Counties; Arkansas State Chamber of Commerce/Associated Industries of Arkansas; Arkansas Environmental Federation; Arkansas Forestry Association; Arkansas Farm Bureau; Arkansas Poultry Federation; Arkansas Independent Producers and Royalty Owners; Camp Ozark; Energy and Environmental Alliance of Arkansas; Arkansas Cattlemen's Association; Arkansas Timber Producers Association; Agriculture Council of Arkansas; and Arkansas Association of Conservation Districts.

Last year, the FWS issued a final rule that would implement an "incremental approach" to analyzing the economic impact of critical habitat designations versus a "quantitative analysis." This approach would require FWS to only consider the cost to the government of consulting on critical habitat, instead of considering costs to all stakeholders. Pryor's bill would reverse this short-sighted approach and implement a comprehensive approach. His bill would also require the Interior to publish the economic analysis for public comment.

"Unfortunately, what the Fish and Wildlife Service's new rule is missing is a dose of common-sense. I'm concerned that these critical habitat designations could negatively impact the economic viability of Arkansans' private land—from lowering property values to hampering their ability to obtain loans," Senator Mark Pryor said. "My bill reverses this illogical rule so FWS takes into account the economic impact these designations have on all those involved."

"Fair and quantitative economic impact analysis for proposed critical habitat designations is a better way to keep the citizenry educated and aware of the true impacts these designations could have on the counties and communities involved. Not only will this more in-depth and accurate method better show real economic impacts to all parties but this legislation also includes more transparency in the process which includes an open comment period for citizens to engage and share their voice on potential economic impacts to their property," Chris Villines, Association of Arkansas Counties Executive Director.

"The negative impact of expanding the Endangered Species Act and Critical Habitat areas in Arkansas would be huge," said Randy Veach, president of Arkansas Farm Bureau. "In the 31 counties in Arkansas where this would apply, the value of agriculture production is nearly \$3 billion and represents more than a half-million (500,000) jobs. So throwing burdensome regulations on top of that sort of economic activity would be devastating to farmers and ranchers and to the economy of this state. Any reliable economic analysis is going to have to take into account the additional requirements thrust upon farmers and ranchers."

"The Community Protection Act adds transparency to critical habitat designations and will help unearth a much more accurate gauge of the economic impact these designations would have on our communities, the public and private landowners. Poultry producers, in particular, have concerns about proposed designations attached to incremental economic analysis studies that do not factor in any real world impact. The economic viability of private and public lands deserves a better method of measuring these impacts. This legislation does so by requiring a fair economic impact analysis to protect private and public property," said Marvin Childers, President of the Poultry Federation.

"The government needs to consider the economic impact these critical habitat designations could have on our state's ranchers. The Arkansas Cattlemen's Association is proud to support this common-sense solution and look

forward to working with Senator Pryor to get this bill signed into law," said Adam McClung, Executive Vice President of the Arkansas Cattlemen's Association.

Over the past few months, Pryor has expressed serious concerns about the impact that a critical habitat designation for the Neosho Mucket and Rabbitsfoot Mussel could have on the state. Last week, FWS Director Dan Ashe accepted Pryor's invitation to visit Arkansas and meet with stakeholders.

113TH CONGRESS
2D SESSION

S. 2084

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2014

Mr. PRYOR (for himself and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Protection
5 Act of 2014”.

1 **SEC. 2. DRAFT ECONOMIC ANALYSIS FOR CRITICAL HABI-**
2 **TAT DESIGNATION.**

3 Section 4(b)(2) of the Endangered Species Act of
4 1973 (16 U.S.C. 1533(b)(2)) is amended—

5 (1) in the first sentence, by striking “(2) The
6 Secretary shall” and inserting the following:

7 “(2) **CRITICAL HABITAT DESIGNATION.**—

8 “(A) **IN GENERAL.**—The Secretary shall”;

9 (2) in the second sentence, by striking “The
10 Secretary may” and inserting the following:

11 “(B) **EXCLUSIONS.**—The Secretary shall”;

12 and

13 (3) by adding at the end the following:

14 “(C) **DRAFT ECONOMIC ANALYSIS.**—At the
15 time a proposed rule to designate critical habi-
16 tat is published, the Secretary shall publish and
17 make available for public comment a draft anal-
18 ysis that—

19 “(i) examines the public and private
20 economic effects of the proposed designa-
21 tion, including any effects on—

22 “(I) possible uses of land and
23 property values;

24 “(II) employment; and

25 “(III) revenues available for
26 State and local governments; and

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“(ii) is quantitative.”.

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113TH CONGRESS
2D SESSION

H. R. 4319

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2014

Mr. CRAWFORD (for himself, Mr. COTTON, Mr. GRIFFIN of Arkansas, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Common Sense in Spe-
5 cies Protection Act of 2014”.

1 **SEC. 2. DRAFT ECONOMIC ANALYSIS FOR CRITICAL HABI-**
2 **TAT DESIGNATION.**

3 Section 4(b)(2) of the Endangered Species Act of
4 1973 (16 U.S.C. 1533(b)(2)) is amended—

5 (1) in the first sentence, by striking “(2) The
6 Secretary shall” and inserting the following:

7 “(2) CRITICAL HABITAT DESIGNATION.—

8 “(A) IN GENERAL.—The Secretary shall”;

9 (2) in the second sentence, by striking “The
10 Secretary may” and inserting the following:

11 “(B) EXCLUSIONS.—The Secretary shall”;

12 and

13 (3) by adding at the end the following:

14 “(C) DRAFT ECONOMIC ANALYSIS.—

15 “(i) REQUIREMENT.—At the time a
16 proposed rule to designate critical habitat
17 is published, the Secretary shall publish
18 and make available for public comment a
19 draft analysis that—

20 “(I) examines the incremental
21 and cumulative economic effects of all
22 actions to protect the species and its
23 habitat (including the effects of the
24 proposed designation) upon each State
25 and locality that is the subject of, or
26 affected by, the proposed designation;

1 “(II) includes consideration of
2 public and private economic effects
3 on—

4 “(aa) possible uses of land
5 and property values;

6 “(bb) the provision of water,
7 power, or other public services;

8 “(cc) employment; and

9 “(dd) revenues available for
10 State and local governments, in-
11 cluding a political subdivision of
12 a State that directly or indirectly
13 provides public services, school
14 districts, and any other instru-
15 mentality of a State;

16 “(III) complies with the guide-
17 lines issued pursuant to section 515 of
18 the Treasury and General Government
19 Appropriations Act of 2001 (114 Stat.
20 2763A-153); and

21 “(IV) assesses such effects on a
22 quantitative and qualitative basis.

23 “(ii) DETERMINATION FACTORS NOT
24 AFFECTED.—Nothing in clause (i) shall be
25 construed as adding to, subtracting from,

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1 or otherwise modifying the factors set
2 forth in subsection (a)(1) or the bases set
3 forth in paragraph (1) of this subsection”.

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