

The Art of the Deal:

A Bilateral Treaty for Biodiversity Preservation in the United States and
Canada

Agenda

- ▶ Endangered Species Act
- ▶ National Strategy for Species at Risk
- ▶ Lake Erie Water Snake Case Study
- ▶ Sage Grouse Case Study
- ▶ Treaty Overview
- ▶ The Proposed Treaty

The United States Endangered Species Act

- ▶ General Provisions
 - ▶ Prohibition of takings
 - ▶ Endangered and Threatened Species are Listed
 - ▶ Critical Habitat of Species is protected
 - ▶ Applicable to government actions and property, and private property

August 2019 Change to ESA

- ▶ Allows regulators to consider economic cost when listing
- ▶ Shortsighted Definition changes
 - ▶ “Foreseeable Future” change invites agency to ignore climate change
 - ▶ Disallows land species might occupy in the future from being considered critical habitat
- ▶ Removal of 4(d) rule allowing threatened species to receive same protections as endangered species

Canada's National Strategy for Species at Risk

- ▶ Three Components
 - ▶ Accord for Protection of Species at Risk, the Habitat Stewardship Program, Species at Risk Act (SARA)
- ▶ Only applies to federal land (5 percent of Canadian land)
- ▶ Different from ESA
 - ▶ Agency cannot consider economic factors
 - ▶ Listing has 4 categories
- ▶ Similar to ESA
 - ▶ Lists individual species
 - ▶ Prohibits taking of species

Canada's Provincial Laws

- ▶ Provinces without specific Endangered Species Legislation
 - ▶ British Columbia, Alberta, Saskatchewan, Yukon, Prince Edward Island, and Nunavut
- ▶ Provinces with Endangered Species Legislation
 - ▶ Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland, and Labrador

Lake Erie Water Snake Illustration

- ▶ Illustrates that cross-border collaboration is needed
- ▶ Recovered in the United States
- ▶ Listed as Endangered in Ontario



The Sage Grouse's Plight illustrates the need for an ecosystem-centered approach

- ▶ In US, long process failed the Sage Grouse
- ▶ Canada failed to address habitat protection
- ▶ An Ecosystem based approach
 - ▶ The ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.



Treaties

- ▶ How they work
- ▶ The Migratory Bird Treaty, for example



The Proposed Treaty should...

- ▶ Mandate an Ecosystem Based Approach
- ▶ Create infrastructure for information sharing
- ▶ Restrict the relevant agencies to only consider scientific data
- ▶ Mandate that critical habitats or ecosystems should include considerations about the future
- ▶ Mandate that climate change is considered in determining future critical habitat