### 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

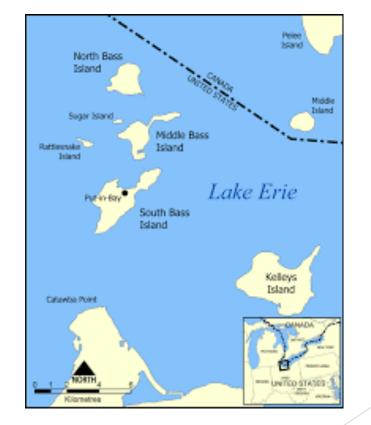
- Three Components
  - Accord for Protection of Species at Risk, the Habitat Stewardship Program, Species at Risk Act (SARA)
- Only applies to federal land (5 percent of Canadian land)
- Different from ESA
  - Agency cannot consider economic factors
  - Listing has 4 categories
- Similar to ESA
  - Lists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