September 16, 2014

Mr. Jim Serfis 
U.S. Fish and Wildlife Service 
Branch of Communication and Candidate Conservation 
4401 N Fairfax Drive, Suite 420 
Arlington, VA  22203

Dear Mr. Serfis:

Western Governors respectfully request that the U.S. Fish and Wildlife Service (FWS) extend by 90 days the public comment period for the draft Policy Regarding Voluntary Prelisting Conservation Actions [79 FR 42525, July 22, 2014]. During that time, FWS should actively work with states and stakeholders to refine the policy so that it provides objectives, implementation mechanisms, and metrics for success.

Western Governors support the provision of economic incentives for landowners to participate in voluntary conservation efforts. This position is memorialized in Western Governors’ Association Policy Resolutions 13-08, Endangered Species Act and 14-11, Species of Concern and Candidate Species. Western Governors are keenly interested in partnering with the FWS to promote such voluntary efforts, but they require more time and information to determine whether the draft policy aligns with their interests.

Western Governors welcome the effort by FWS to incentivize voluntary conservation actions on behalf of species in order to preclude the need for additional listings under the Endangered Species Act (ESA). Unfortunately, the draft policy lacks sufficient detail for states to determine the draft policy’s specific goals and how they will be achieved. A more complete explanation of the policy would help states provide meaningful input.

The policy put in place by FWS should emphasize and encourage measures sufficient to preclude the need for listing, not simply award post-listing credit for prelisting actions. The draft policy discusses how voluntary prelisting conservation actions can be treated as mitigation or compensatory measures when a party seeks an incidental take permit under ESA Section 10 or as a compensatory measure under a Section 7 consultation. Section 7 and Section 10, however, apply only after a species is listed. It is unclear whether and how voluntary conservation measures will be valued by FWS in a pre-determination scenario.
Under section 6 of ESA, FWS is required to cooperate, “to the maximum extent practicable with the States,” in implementation of the Act. To best promote the cooperation contemplated by the law, Western Governors require direct engagement with the Service to provide more clarity on its intentions regarding the draft policy.

We ask that the comment period be extended an additional 90 days – to December 21, 2014 – and that this time be used for the Service to actively collaborate with the states and other stakeholders to shape a policy that meets mutual objectives. In the short-term, we request that the FWS provide Western Governors with a written clarification explaining the draft policy’s specific goals and how they will be achieved.

Sincerely,

James D. Ogsbury
Executive Director

cc: Honorable Sally Jewell, Secretary, U.S. Department of the Interior
    Dan Ashe, Director, U.S. Fish and Wildlife Service