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SENATE BILL 850

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO WILDLIFE; ADDING BUTTERFLIES TO THE DEFINITION OF
WILDLIFE IN THE WILDLIFE CONSERVATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-2-38 NMSA 1978 (being Laws 1974,
Chapter 83, Section 2, as amended) is amended to read:

"17-2-38. DEFINITIONS.--As used in the Wildlife
Conservation Act:

- A. "commission" means the state game commission;
- B. "director" means the director of the department
of game and fish;
- C. "ecosystem" means a system of living organisms
and their environment;
- D. "endangered species" means any species of fish
or wildlife whose prospects of survival or recruitment within

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1 the state are in jeopardy due to any of the following factors:

2 (1) the present or threatened destruction,
3 modification or curtailment of its habitat;

4 (2) overutilization for scientific, commercial
5 or sporting purposes;

6 (3) the effect of disease or predation;

7 (4) other natural or man-made factors
8 affecting its prospects of survival or recruitment within the
9 state; or

10 (5) any combination of the foregoing factors.

11 [~~The term~~] "Endangered species" may also include any
12 species of fish or wildlife appearing on the United States list
13 of endangered native and foreign fish and wildlife as set forth
14 in Section 4 of the federal Endangered Species Act of 1973 as
15 endangered species, provided that the commission adopts those
16 lists in whole or in part. [~~The term~~] "Endangered species"
17 shall not include any species covered by the provisions of 16
18 U.S.C. 1331 through 1340 (1971) and shall not include any
19 species of the class insecta determined by the director to
20 constitute a pest whose protection under the Wildlife
21 Conservation Act would present an overwhelming and overriding
22 risk to man;

23 E. "investigation" means a process pursuant to
24 Subsections B through L of Section 17-2-40 NMSA 1978 undertaken
25 whenever the director suspects that a species may be threatened

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1 or endangered and ~~[which]~~ that consists of a formal review of
2 existing data and studies and may include additional field
3 research to determine whether a species is threatened or
4 endangered;

5 F. "land or aquatic habitat interests" means
6 interests in real property or water rights consisting of fee
7 simple title, easements in perpetuity, time certain easements,
8 long-term leases and short-term leases;

9 G. "management" means the collection and
10 application of biological information for the purposes of
11 establishing and maintaining a congruous relationship between
12 individuals within species and populations of wildlife and the
13 carrying capacity of their habitat. ~~[The term]~~ "Management"
14 includes the entire range of activities that constitutes a full
15 scientific resource program ~~[of]~~, including ~~[but not limited~~
16 ~~to]~~ research, census, law enforcement, propagation, acquisition
17 or maintenance of land or aquatic habitat interests appropriate
18 for recovery of the species; improvement and maintenance,
19 education and related activities; ~~[or]~~ and protection and
20 regulated taking;

21 H. "recovery plan" means a designated program or
22 methodology reasonably expected to lead to restoration and
23 maintenance of a species and its habitat;

24 I. "peer review panel" means an advisory panel of
25 scientists, each of whom possesses expertise relevant to the

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1 proposed investigation and at least one of whom is a wildlife
2 biologist, convened to review the scientific methodology for
3 collection and analysis of data by a researcher based on
4 commonly accepted scientific peer review;

5 J. "species" means any species or subspecies;

6 K. "substantial public interest" means a
7 nonfrivolous claim indicated by a broad-based expression of
8 public concern;

9 L. "take" or "taking" means to harass, hunt,
10 capture or kill any wildlife or attempt to do so;

11 M. "threatened species" means any species that is
12 likely to become an endangered species within the foreseeable
13 future throughout all or a significant portion of its range in
14 New Mexico; the term may also include any species of fish or
15 wildlife appearing on the United States list of endangered
16 native and foreign fish and wildlife as set forth in Section 4
17 of the federal Endangered Species Act of 1973 as threatened
18 species, provided that the commission adopts the list in whole
19 or in part; and

20 N. "wildlife" means any nondomestic mammal, bird,
21 reptile, amphibian, fish, butterfly, mollusk or crustacean or
22 any part, egg or offspring or the dead body or parts thereof."