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FISH AND WILDLIFE IS ‘CONSERVING’ IMPERILED ANIMALS BY DENYING THEM PROTECTION

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The American southeast, with its lush ecosystems and rich biodiversity, has the highest number of endangered and threatened species of any place in the continental United States. The region’s many ecological treasures, its enormous human population, and its vulnerability to the impacts of climate change make it a place where wild animals are in crisis.

The case of the Florida Keys mole skink offers a fitting example. A diminutive, finger-length lizard with a pinkish tail, the species lives on the beaches of the Florida Keys, where it burrows into the sand for protection and feeds on insects. It’s a cute little thing living a tropical lifestyle. The skink, though, faces a frightening future: In a 2017 assessment the U.S. Fish and Wildlife Service estimated that, by 2060, as much as 44 percent of the species’ suitable habitat could be lost to sea level rise, and by 2100 as much as 74 percent could be inundated under worst-case scenarios. This catastrophic loss of habitat would compound other threats to the species’ long-term viability, including oceanfront development and predation from invasive species.

And yet, in October of 2017, the Fish and Wildlife Service denied Endangered Species Act protections to the skink. Curiously, in justifying its denial, the agency declined to use sea-level rise projections that extended out to 2100, instead limiting its analysis to sea level rise projections that went no further than the year 2060.

Conservationists were shocked by the agency’s denial of protections. “The Trump administration’s outrageous decision not to protect these colorful little lizards reflects a reckless denial of climate science,” Elise Bennett, an attorney with the Center for Biological Diversity, said at the time. “Rising seas and stronger storms fueled by global warming put this coastal lizard at grave risk of extinction.”

Now, nearly two years later, public records have emerged that may help explain why the Fish and Wildlife Service decided not to provide the skink, among other animals, with Endangered Species Act protections. Beginning in fiscal year 2017, records show, top leaders with the Fish and Wildlife Service’s southeastern region issued a new directive that prodded agency officials to delist, down-list, or otherwise preclude 30 species each year from the endangered species list.

The directive, which was dubbed the region's "Wildly Important Goal" (or WIG), appears to have been developed in part by the Fish and Wildlife Service's southeastern regional director, Leo Miranda. In a December of 2017 email first obtained by the Southern Environmental Law Center, Miranda—then an assistant regional director—wrote his Fish and Wildlife Service colleagues about the directive, telling them that "Our WIG for FY17 was to conserve 30 species by delisting, downlisting, or precluding the need to list them."

Miranda's 2017 email does not explain in detail how precluding or removing species from Endangered Species Act protection constitutes proactive conservation. The email does, however, say that species were precluded from listing if the agency was able to either demonstrate that "the species was sufficiently abundant and/or in enough protected places that it did not warrant being listed."

In the end, according to the public records, the Fish and Wildlife Service's southeastern region met its 2017 goal and downlisted, delisted, or refrained from listing 30 different species. Some of the species that appear on the agency's 2017 WIG list deserve to be there, conservationists agree: for example, the population of white-haired goldenrod, a flower in Kentucky, has rebounded thanks to federal intervention. But others are more controversial—including the Florida Keys mole skink.

Wildlife advocates view the WIG directive, which is being reported here for the first time, with dismay.

"What struck me most about [the WIG directive] is that, instead of focusing on abating the extinction crisis, the director [of the southeastern region] is focused on meeting some arbitrary number of avoided listings," says Tierra Curry, a senior scientist at the Center for Biological Diversity.

"The WIG and the quota it establishes is just a really heavy thumb on the scale against [ESA] listings," adds Sam Evans, a senior attorney with the Southern Environmental Law Center, whose organization first obtained the WIG records through a Freedom of Information Act request. "It encourages declaring victory prematurely for species that still need protection."

In defense of WIG, which is ongoing in the southeastern region, the FWS says that the directive is meant to "set a high bar for species recovery success."

"The Endangered Species Act requires the Service make listing and delisting determinations using only the best available science," writes Philp Kloer, a spokesperson for the southeastern region, in a statement. "No quota system or mandatory number of delistings, downlistings, or not-warranted 12-month findings that would violate this requirement has ever been made at the Service. To do so would not only be contrary to the act but to our scientific principles."

However, the agency's own internal documents suggest that some Fish and Wildlife officials feel that WIG is a hurdle to providing species with full ESA protections. In a draft document released in response to a public records request, the agency noted that it has received feedback that its WIG directive "creates a disincentive to listing species."

Despite the FWS's assurance that WIG is part of a "broad vision" for supporting endangered species recovery, wildlife conservationists, and particularly advocates of the Florida Keys mole skink, remain alarmed. Bennett of the Center for Biological Diversity says the Fish and Wildlife Service's decision to deny protections to the Florida Keys mole skink appears to be arbitrary and capricious and notes that her organization has filed a notice of intent to sue the agency over the matter.

"My biggest concern is that [the WIG directive] incentivizes staff to decide not to protect species, even when they need it, because they need to reach this quota to not protect 30 species a year, which is a lot," Bennett says. "I don't know how you can predetermine that 30 species a year aren't going to need protection before you have a chance to look at their status. That is the epitome of arbitrary and capricious, and under the law agencies cannot act in a way that is arbitrary and capricious. It is extremely concerning."