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Good afternoon Chairman Gosar, Members of Congress, other roundtable participants, ladies and gentlemen. My name is Bob Lynch and I am an attorney in Phoenix Arizona. I was still at the Justice Department when initial versions of the Endangered Species Act (ESA) were being kicked around and I have been dealing with it in one way or another since President Nixon signed it. At the time he did, I thought that this was a temporary law and program: list species, recover species and go on to something else. Boy, was I wrong. Forty-six years later and we are not anywhere close to being done. How could you face your boss in the private sector with this record, unless perhaps his name was Edsel. Even then Ford improved its program and now we have the F-150, the hottest selling pickup ever. In my view, with the ESA we've passed the Edsel but are not yet close to the F-150. People are afraid of this law. This fear is well-founded. The scariest part of it is the designation of critical habitat, especially habitat not occupied by the species. The 1973 Act is flawed. The new regulations are then of necessity flawed and the draft bill on this subject is flawed. Logic dictates the following changes to the law:

Order the agencies in identifying unoccupied habitat to:

1. Identify why it is unoccupied; if you can't, stop; if you can
2. Assess whether the flaws can be cured; if they can't, stop; if they can
3. Assess the costs to cure; and
4. Assign responsibility for the cost.

We aren't there yet but as to the 4th element, again in my view, that tab ought to be handed to the federal government. Otherwise, it's like an uninsured patient being operated on without anesthesia. You get the pain and the bill.

Thank you for the opportunity to participate here today.