

## Breakout 2A: Pre-Compliance Conservation Banking

### Panelists:

- Trevor Cutsinger, US Army Environmental Command
- Todd Gartner, WRI
- Shauna Ginger, US Fish and Wildlife Service
- Moderator: Josh Donlan, Advanced Conservation Strategies)

### Abstract:

Laws such as The Endangered Species Act (ESA) and state endangered species laws are designed to protect species and their habitat facing, or likely to face, extinction. The ESA in particular has long been a lightning rod for political debate regarding the extent of protection of our nation's natural resources. Implementation has been the focus of numerous lawsuits that have consumed substantial program resources. Further exacerbating the situation is that incentives for the conservation of rare species, before they are listed, are largely missing from these laws. Preemptive conservation actions, before formal government regulation, are more efficient, less contentious, and more cost-effective. There is a growing interest across many sectors for pre-compliance conservation banking programs. Under such a framework, individuals, agencies, or institutions that foresee having impacts on a species can preemptively buy habitat credits to offset those future impacts, and individuals or institutions who own appropriate land can engage in management practices that qualify them to sell habitat credits for a profit. A pre-compliance conservation banking program can also attract additional buyers that are interested in buying conservation outcomes as strategic philanthropy and corporate social responsibility efforts. The panel will discuss how pre-compliance frameworks could be structured, along with the advantages and challenges to implementing such programs. The panel will consist of representatives of potential "buyers" and "sellers" of habitat credits, regulators of potential programs, and foundations that are interested in facilitating this market-based approach. A pre-compliance conservation program is applicable and scalable across many species and regions in the United States, and if executed properly could provide preemptive biodiversity conservation gains prior to costly regulatory triggers.

### 1. Overarching themes and key takeaways

- Pre-compliance banking: how we value species and how we make decisions to change the status quo of valuation, which is to value them only once they become endangered. Why should someone buy early if they don't have to, though? And are there assurances (or awards) for those who do pre-compliance banking if species become endangered down the line?
- The overarching theme is that pre-compliance banking is a way for entities who are doing activities that threaten species that are candidates for being listed on the endangered species list to buy some assurance for themselves in the future as well as potentially contribute to habitat work that will keep the species off the list. Keeping a species off the list means less money paid and fewer headaches from regulations that these entities will have to deal with.

- There is a pre-compliance pilot project in the southwest working with the Department of Defense, the Army branch. In this pilot case, landowners surrounding the training base would be given the opportunity to sell a long-term commitment to manage their land for the gopher tortoise, according to a management plan that would be developed in conjunction with local and regional natural resource professionals. There would be a broker involved that would help negotiate what the price would be that the private landowner receives for this service of their. The person paying for these credits would be the Army, IF they get assurance from the USFWS that if gopher tortoises go on the endangered species list, that they will not be forced to shut down their training operations, which has happened in the past. Training operations get stalled because of species getting listed and it being determined that army activity is not in compliance with the ESA.
2. How this panel outlines (or contributes) to where we might go (as ecosystem services/markets professionals) from here
- Primary issue is education and awareness; more service people on the ground need to be aware that there is this tool in their tool box, or that there are models out there