

Protected Species and Implementation of the Endangered Species Act (ESA)

ESA issues have the potential to significantly impact water infrastructure project development, wastewater operations, and the availability of water supplies serving municipal, industrial, and agricultural water users across Texas and the nation. This includes the recent proposal by the U.S. Fish and Wildlife Service (Service) to list several aquatic species in Texas as threatened or endangered. The proposal delineates almost 2,000 river miles as critical habitat, including areas important to water supply interests. The TWCA membership understands and supports the need to protect biodiversity, and diligently adheres to numerous existing regulations, such as environmental flow and water quality standards, as well as other federal, state, and local permitting requirements. These measures provide broad, ongoing protection of the aquatic environment. However, there are several issues that concern our members, as discussed below.

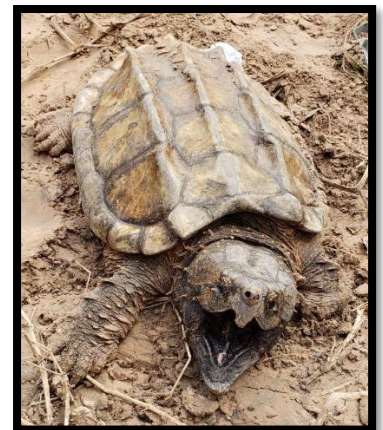
The species' need for protection should be driven by sound science. An absence of credible science regarding a species' habitat or behavior and general uncertainty about climate change impacts should not be relied upon to determine whether species need protection. Rather, the lack of credible science should be acknowledged and corrected through deliberate, peer-reviewed studies before a listing determination is made. Similarly, once a species is listed, Avoidance and Mitigation Measures that are requirements of incidental take permits or Section 7 Consultations, should be based on sound-science with clear benefits to the covered species rather than arbitrary measures that fail to establish how impacts to the covered species will be reduced or avoided through the prescribed measures.

Federal funding is needed to fill data gaps and improve best available science. Funding through competitive grants should be made available to a diverse set of stakeholders in order to facilitate objective research and data gathering. This will ensure targeted studies that produce meaningful and timely data are conducted on species of interest.

Concern over regional impacts of climate change, absent specific peer-reviewed scientific studies, should not be used in threat assessments to tip the scales on listing decisions. In species listing evaluations, the impacts of climate change are recognized as a specific, individual threat and a universal threat multiplier, even when there are no credible regional studies to support the conclusions drawn by the Service. Assumptions about future, local climate conditions that are not based on credible regional studies are inherently speculative, yet they are relied upon to justify a listing. The Service should provide clear guidance on the use of climate data in threat assessments and listing decisions, to include data sufficiency standards.

Request of Congress.

- **Continued oversight of the Services' implementation of the ESA to:**
 - Ensure listing decisions are based on an objective evaluation of sound science.
 - Support efforts to expand the scientific understanding of species so that listing *and* delisting decisions can be made in a timely and defensible manner.



Alligator Snapping Turtle
(*Macrolemys temminickii*)

- Provide funding for research through competitive grants and make this funding available to a diverse set of stakeholders.
- Make sure the Service is conducting five-year assessments as required.