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Media Contact:

JJ Apodaca, Ph.D.

Executive Director

828-544-0581 | jj@ARCProtects.org

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What Overturning Chevron Deference Would Mean for Wildlife Species on the Brink *A National Nonprofit's Conservation Efforts for Imperiled Amphibians and Reptiles Would Be Set Back by the Supreme Court Decision*

UNITED STATES, January 25, 2024 - The large number of sensitive wildlife species in the US that are already teetering on the edge of extinction can ill afford the inevitable setbacks they'll face if the 40-year-old Chevron deference is overturned by the Supreme Court. The Amphibian and Reptile Conservancy (ARC), a national nonprofit to conserve imperiled wildlife, is watching the situation closely with concern about the effects of this decision on its programs for threatened and endangered species. At issue is who will interpret ambiguous environmental statutes: the relevant administrative agency or the courts?

"It'll be a big loss if the agencies with which we closely partner are no longer able to use their considerable expertise to interpret statutes relating to wildlife conservation. It would literally be taking important conservation decisions out of the hands of trained experts and putting them into the hands of judges, many of whom haven't taken a biology class since high school," ARC Executive Director JJ Apodaca explained. "It'll mean that, as a conservation community, we'll be hampered in our ability to carry out protection efforts for species that are running out of time."

After last week, when the Supreme Court heard arguments in the "Loper Bright Enterprises v. Raimondo" case, many experts are predicting that the court will discard Chevron deference. "If this comes to pass, it'll greatly limit the power of government agencies to develop and enforce rules that protect wildlife and the environment," said ARC Private Lands and Policy Director Kat Diersen. "It will also open up long-established environmental protections to a barrage of legal challenges."

Diersen added, "The role of the Supreme Court, and all courts, should be to ensure that government agencies administer environmental laws in a manner that conforms with Congress' clearly expressed intent to give robust protections to air, water, and wildlife. It should not be the court's role to substitute its own judgment for the judgment of experienced experts who are tasked with deciding how best to implement these laws."

If Chevron deference is overturned, there will be wide-ranging impacts on decisions about environmental statutes, from acceptable pollution levels to how the Endangered Species Act (ESA) is applied. In fact, ambiguous statutes in the ESA have led to regulatory challenges in the past. For example, the [flat-tailed horned lizard](#) was the subject of a long-lasting back and forth between the US Fish and Wildlife Service and the courts, including the US Court of Appeals for the Ninth Circuit. This resulted from an ambiguous phrase in an ESA statute, “Significant Portion of its Range (SPR).”

These impacts could also extend to decisions regarding critical habitat, an area that is essential for an ESA-listed species. Critical habitats frequently include wetlands because more than one-third of federally-listed Threatened and Endangered species live solely in wetlands, and many more depend on wetlands for some stages of their lives. “Amphibians, which rely heavily on wetlands, are the most threatened group of vertebrates in the world,” said Apodaca. The organization is currently carrying out on-the-ground conservation efforts for numerous federally listed wetland-dependent species, including [frosted flatwoods salamanders](#), Chiracahua leopard frogs, Houston toads, and [bog turtles](#), as well as species that are under review for listing, such as [gopher frogs](#).

These species depend on the protections afforded by Chevron deference. As Diersen explained, “The wolves have been at the door for years when it comes to laws that protect this country's wildlife. Adversaries of the ESA and other environmental laws can be found within the courts and within government agencies, not just private sector industries. Chevron has kept them at bay. Throwing away Chevron is like opening that door and rolling out a welcome mat to anyone who wants to attempt to weaken them.”

ARC's work, which involves large voluntary partnerships to recover threatened and endangered species, will become even more important if federal oversight is restricted. However, no one nonprofit or group of organizations will be able to fill the gap if environmental protections are diluted, and the consequences could be very problematic for both wildlife and people.

“Every time we weaken environmental policy, the most vulnerable among us are the ones who feel it,” said Apodaca. “This not only includes endangered wildlife but also the people in our society who bear the brunt of the impacts, including resource extraction and pollution, namely Black, Indigenous, and People of Color. It's an issue of justice for our native wildlife and the people of the US.”

About Amphibian and Reptile Conservancy (ARC)

Amphibian and Reptile Conservancy, or ARC, is a 501(c)(3) nonprofit focused on identifying and conserving the highest priority places for amphibians and reptiles in the United States. We protect endangered amphibians and reptiles through a strategic, scientific, and passionate approach. We believe the conservation of amphibians, reptiles, and the habitats they depend on is vitally important. To learn more, visit ARCProtects.org.

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