

THE PROGRESS REPORT

The Endangered Species Act: A Danger to Species

By Fred E. Foldvary

If most Americans believe that the **Endangered Species Act**, enacted in 1973, is saving rare species, they are mistaken. The ESA has not saved any species. Rather, the ESA is helping to destroy the habitat of endangered species. According to the US Fish and Wildlife Service, less than one tenth of all listed species under its jurisdiction are improving, while four tenths are declining.

Seven species listed under the ESA have become extinct, and those faring better were not saved by the ESA. The California gray whale, for example, was rescued by whaling treaties, not the ESA.

The reason the Endangered Species Act threatens the existence of species of wild plants and animals is that it creates perverse incentives. The ESA pushes people to destroy the habitat - the trees and bushes and grasses - that wild animals depend on.

In a paper presented to a conference organized by the Political Economy Research Center in April 9-10, 1999, Ike Sugg stated that under the ESA, "landowners are regularly penalized (with draconian land-use restrictions, extortionate permit requirements, red tape, high court costs, punitive tax codes, etc.) for having endangered species on their property."

Faced with these costs, the incentive is for landowners to prevent having any endangered species on their land. They destroy the habitat that the animals depend on to avoid the restrictions and penalties. The ESA has turned farmers and ranchers against the preservation of endangered species, when they could have become allies of the effort to save species from extinction.

According to the US General Accounting Office, more than 75 percent of all threatened and endangered species depend on private land for their survival. The ESA prohibits anyone from "taking" a listed species, which includes changing the habitat. The **U.S. Fish and Wildlife Service**, an agency of the Interior Department, enforces the Act. This agency has appropriated use rights to millions of acres of land without compensation.

This might not be so bad if this was really done to avoid killing the species and destroying the habitat. But, given this power, the FWS claims that harvesting trees over two miles from active nesting trees involves "taking" the birds. The FWS has also claimed that modifying the habitat is a taking even if the species is not there. The landowner then has to do "mitigation," donate the habitat to the government or otherwise comply with whatever measures the officials think are appropriate, no matter what the cost.

When a new species is listed, there is a freeze in the land use over all the habitat for two to three years. It can take many years for the freeze to thaw. Violating the ESA is punishable by a \$200,000 fine and up to one year in jail, for each violation.

As a result, very few landowners want to have threatened or endangered species on their land. Many then take action to make sure these species will not live there. The Director of Resource Protection for the Texas Parks and Wildlife Department stated that more habitat for some birds has been lost since their listing than would have been lost without the ESA.

If Congress were serious about saving endangered species, they would reverse the incentives. Instead of making it costly for farmers, ranchers, and other landowners to have endangered species on their land, the government should reward them for preserving them. That, of course, costs money, so the question is, does the public want to spend the funds to save the species, or not? It seems to me that the people do want to save the wildlife, but Congress is not responding.

Some wild animals are being raised and preserved by private owners. For example, the rare black rhinoceros are being saved on private land in Africa and the United States. No species that is privately owned and commercially valued has become extinct. The **Exotic Wildlife Association** members own over 200,000 wild animals. Every species propagated by EWA members has increased. The reason is simple: they have economic incentives to preserve and expand the animals, whether for enjoyment or for commercial sale and use.

Yet the ESA, instead of encouraging private wildlife, has acted against it with prohibitions (such as on venison consumption) and expensive permit requirements. The market value of the wildlife plunges if it is listed under the ESA. The ESA punitive measures also encourages the conversion of wildlife habitat to housing. As Ike Sugg states, "undeveloped rural land must be economically productive if it is to stay undeveloped."

One way farmers and ranchers, many of whom are not profitable, can stay in business would be to diversify into having rare species on their land, if they could benefit from this. Instead of fines and costs, if the ESA would compensate farmers and ranchers for having rare animals and improving the habitat, many more species would be saved from extinction. This would also promote eco-tourism.

The common heritage of humanity consists of our natural resources, including wildlife. Landowners have a moral obligation not to destroy rare wildlife, which morally belongs to all humanity, but they should not bear all the cost.

When wildlife preservation competes with profitable uses for land, society should compensate the owners for the cost of maintaining our wildlife. That would make ranchers, farmers, and other owners of the habitat friends instead of enemies of wildlife.