



Fish vs. Folks

The debate intensifies over the future of the Endangered Species Act

Think of the Endangered Species Act as a wolf. Some people love wolves, some despise wolves, and some think wolves are OK, but wish they would change their ways — like turning vegetarian.

This year, it looks like some members of Congress may not do away with the wolf, but they are in the mood to pull a few teeth to see if they can change its habits.

The Endangered Species Act is about to enter a pivotal period in its 22-year history as Congress prepares to debate its reauthorization.

And Idaho's congressional delegation will have a large say in the debate that will determine if, to use its own vernacular, the act is listed as an endangered or threatened species.

Idaho Sen. Dirk Kempthorne is chair of the Senate Environment and Public Works subcommittee that will oversee reauthorization. Kempthorne will preside over field hearings scheduled for this spring. And Idaho Rep. Helen Chenoweth serves on a House task force assigned to create a new Endangered Species Act by July.

Like many other members of the new Republican-controlled Congress, Kempthorne says the act needs to be reformed.

"We can no longer ignore the impact of the act on people or their ways of life," Kempthorne said in a press release. "Endangering our communities is not an acceptable approach to species protection; we must find a more harmonious approach."

Others have been more blunt. "We now have the votes to change [the law] so people count as much as bugs," Oregon Sen. Bob Packwood told *USA Today*.

At issue is what many consider the strongest piece of environmental legislation ever written. Unlike other environmental

Story and photos by Glenn Oakley

Endangered Species Act

Purpose — The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

Policy — (1) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.

(2) It is further declared to be the policy of Congress that federal agencies shall cooperate with state and local agencies to resolve water resource issues in concert with conservation of endangered species.

Factors considered by the Secretary of the Interior to determine whether a species is threatened or endangered:

- (A) the present or threatened destruction, modification, or curtailment of its habitat or range;*
- (B) overutilization for commercial, recreational, scientific, or educational purposes;*
- (C) disease or predation;*
- (D) the inadequacy of existing regulatory mechanisms;*
- (E) other natural or manmade factors affecting its continued existence.*

laws that can only make recommendations, the 1973 Endangered Species Act requires specific action to prevent further harm to a species and to adopt plans for recovery, says BSU natural resource policy scholar John Freemuth.

"There is a 'thou shalt not' tone to it, and that is why it gets so political," says Freemuth.

Opponents of the act argue that the listing of some species, such as the spotted owl, is a tactic often used by environmentalists bent on stopping logging, mining, ranching or other resource uses. Critics also charge that subspecies and geographically distinct populations of a species should not be listed if they exist elsewhere; and that regulations imposed with the listing of a species are too restrictive and oppressive. Many view endangered species management as the federal bureaucracy imposing its will on the local people. And a number of people argue that some species are simply unnecessary.

On the other hand, proponents argue that the rapid rate of endangered species listings simply reflects a deteriorating ecosystem, that management plans for endangered species do accommodate human commerce and recreation, and that "mycorrhizal fungi and grizzly bears may be equally important to the healthy functioning of an ecosystem," as a group of scientists wrote in an open letter to Congress. Supporters point to polls that say the majority of Americans support the act.

Idaho is home to 22 species on the endangered list. In virtually all cases, human economic activity has led to the endangerment of the species. Therefore, each listing has the potential to alter, disrupt or halt some economic activity, usually on federal land.

Listed species in Idaho include dramatic "megafauna" like grizzlies, wolves and woodland caribou as well as less auspicious species like the Bruneau Hot Springsnail. All have been the subject of intense debate and controversy.

But the aquatic species in Idaho have the greatest potential to change the way natural resources are managed.

Because they migrate 900 miles one way within the Northwest, chinook and sockeye salmon affect a vast region. Because of the stakes to huge "downstream" industries such as aluminum and shipping and to "upstream" interests such as resource-based industries and recreation, the mandate to save the salmon has generated a political battle unprecedented in the history of the act.

A skirmish in that battle occurred in central Idaho last month when a U.S. District judge in Hawaii came close to halting mining, grazing, logging and other activity that might harm habitat for endangered salmon in six central Idaho national forests.

That, coupled with the release of gray wolves in the Frank Church River of No Return Wilderness, has left many residents in Salmon and Challis fuming about the ESA.

Lemhi county commissioner Heber Stokes estimates a closure of resource industries in the region could impact 60 percent of Salmon's income, or approximately \$43 million.

"When it comes to taking the livelihood and culture away from a community, it is time to change the act so it looks toward the people ... we need to rewrite it and use a little common sense," Stokes says.

The potential shut-down of local industries has Salmon residents in a "nasty" mood, says Hadley Roberts, who represents the area on the state board of the Idaho Conservation League.

"I can't find anybody who doesn't side with the locals on this issue. The whole lawsuit is frivolous ... the Endangered Species Act has been a lifesaver, but the abuse of it in this case gives it a bad name," he says.

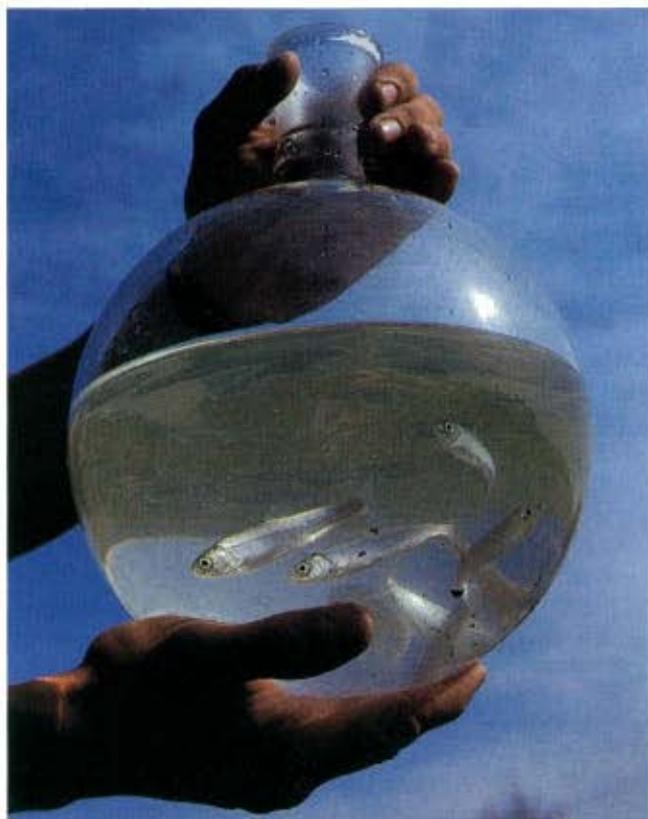
"Even if we had the best habitat, it would be worthless because the fish can't get to it," he adds.

Congress will certainly hear strong opinions on both sides during the reauthorization debate. Already, there is speculation about the outcome.

"I don't see sentiment to gut the act. Congress may say 'let's analyze the benefits and costs versus the species,'" says BSU political scientist Freemuth. "They may not do anything ... if they fail to reauthorize the act, they can't appropriate money for it. That could stop or slow studies and other activities."

Karl Brooks of the Idaho Conservation League predicts Congress will change the act in some way. "Let's improve the recovery portions of the act, but not go back on the original premise that we are a healthier place with our ecosystems functioning as well as possible."

"Endangering our communities is not an acceptable approach to species protection; we must find a more harmonious approach."



Redfish Lake sockeye are too rare to trust to the downstream dams and are now raised in hatcheries.

"We can trace the health of our surroundings by tracking the species that live in it ... it's the old idea of the canary in a coal mine."

Phil Million, public affairs director for the U.S. Fish and Wildlife Service, the Interior Department agency that oversees implementation of the act, says the Clinton administration is attempting to defuse demolition of the act by being more flexible in the recovery plans. By example, he cites the wolf reintroduction program in Idaho and Yellowstone National Park. All reintroduced wolves are officially designated as experimental non-essential populations that can be killed if and when they attack livestock or otherwise conflict with people.

Nonetheless, state political opposition to the wolf reintroduction is so strong that the Idaho Legislature prohibited the Idaho Department of Fish and Game from accepting a prearranged agreement to monitor and manage wolf reintroduction in the state with federal funding. The Wyoming legislature in mid-January voted in a \$500 bounty on wolves leaving Yellowstone National Park.

The history of the act is punctuated with high-profile battles over the relative expense and value of saving imperiled species. First there was the snail darter, a three-inch long fish that — temporarily at least — halted completion of the \$120

million Tellico Dam in eastern Tennessee. Environmentalists had tried other means to stop this project that would flood the last free-flowing river in the region, but had been thwarted by the powerful Tennessee Valley Authority.

The snail darter was discovered the same year the ESA passed, and the dam opponents attempted to use the impending demise of the species to stop the project. This dispute resulted in the first amendment to the act, creating "The God Squad."

The God Squad, known formally as the Endangered Species Committee, is comprised of U.S. cabinet secretaries and agency heads and is called upon to resolve "irresolvable conflicts" by either sanctioning the extinction of the species in question or terminating the opposing development.

Despite the widespread ridiculing of the snail darter at the time, the God Squad ruled unanimously in favor of the fish, finding that the Tellico Dam project was a financial boondoggle. Then-Secretary of the Interior Cecil Andrus was quoted as saying, "Frankly, I hate

to see the snail darter get the credit for delaying a project that was so ill-conceived and uneconomic in the first place."

So the Endangered Species Act had prevailed in its first knock-down-drag-out-fight. Then it got sucker-punched. Tennessee Congressman John Duncan slipped in an amendment to a \$10 billion appropriations bill exempting the Tellico Dam from the Endangered Species Act, the Clean Water Act, the National Environmental Policy Act and virtually every law that could affect it. The dam was built.

Since the snail darter issue, there have been a menagerie of other animals and plants whose value and significance has been challenged. *USA Today* in a Dec. 2, 1994, cover story wrote, "When the law was first passed, it was with the idea of saving big, cute or charismatic species, like bald eagles or manatees. Now, even a once-sympathetic public shows little tolerance for land restrictions to save microscopic fish or unappealing beetles."

The months ahead will decide how much tolerance Congress has for a controversial act that has protected those fish and beetles ... and hundreds of other species ... for the past 22 years. □

The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

The term "endangered species" means species is in danger of extinction throughout all or a significant portion of its range.

Idaho species listed as endangered and the year of their listing.

Bald Eagle — 1978, proposed to be reduced to "threatened species" status

Paragrine Falcon — 1970

Whooping Crane — 1975

Gray Wolf — 1974

Woodland Caribou — 1984

Sockeye Salmon — 1991

Chinook Salmon — 1992

Utah Valvata Snail — 1992

Idaho Springsnail — 1992

Banbury Springs Limpet — 1992

Snake River Physa Snail — 1992

White Sturgeon — 1994

Idaho species listed as threatened.

Grizzly Bear — 1975

Bliss Rapids Snail — 1992