

■ Endangered Species Act

Date: December 28, 1973

Author: U.S. Congress

Genre: legislation

Summary Overview

The Endangered Species Act (ESA) was enacted in 1973 and is a cornerstone of U.S. wildlife conservation law. It aims to protect and recover imperiled plant and animal species and the ecosystems upon which they depend.

In 1973 Congress passed the ESA to address fish, wildlife, and plant conservation. The Act acknowledged that the federal government's longstanding support for "economic growth and development" had led to the extinction of numerous species and caused others to be at risk. To prevent the further destruction of fish, wildlife, and plant species the Act prohibited the federal government from providing financial support to projects that placed endangered species at risk.

In short, the Endangered Species Act is a fundamental law promoting the protection of biological diversity and ecosystems, embodying core liberal ideals of environmental responsibility and government action.

Defining Moment

The Endangered Species Act occurred within the context of the developing environmental movement of the 1960s and 1970s. Reform movements of this era often focused on racial, socioeconomic, and sexual equality, but many Americans were increasingly concerned about the devastating effects that human actions were having on the physical environment. In 1962 naturalist Rachel Carson's *Silent Spring* brought attention to the negative effects of chemical pesticides on the environment. President Lyndon Johnson's "Great Society" reforms included the National Wilderness Preservation Act of 1964, which set aside 9.1 million acres of wilderness, as well as other laws reducing water and air pollution. Concern for the environment continued even during the administration of Richard Nixon. In 1969 Congress enacted the Endangered Species Conservation Act which authorized the Secretary of the Interior to create a list of species threatened with extinction worldwide and prohibit their importation into the United States.

Even more significantly, in 1970 Congress passed the National Environmental Protection Act, which created the Environmental Protection Agency (EPA), establishing a federal government agency which would implement and enforce antipollution and other environ-

mental standards on businesses and consumers. During the next few years Congress passed the Clean Air Act, Water Quality Improvement Act, and the Resource Recovery Act. At the international level the United States signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1973, which placed further restrictions on the trade of endangered species of plants and animals.

The Endangered Species Act of 1973 reflected a greater concern among the public and Congress about environmental degradation, but it also revealed a different way of looking at the problem. Previous legislation had focused on the need to protect the air, water, and wilderness degradation because of its harmful effects on human beings. The Endangered Species Act of 1973 focused on the negative effects of pollution and environmental damage on fish, wildlife, and plants. Non-human species had importance other than their economic benefit to human beings. The law subtly suggested that the rights of other species should be part of the equation when determining environmental policies.

Author Biography

The Endangered Species Act of 1973 was an attempt to expand on the benefits of previous legislation, most

notably the Endangered Species Conservation Act of 1969. In January 1973, Congressman John Dingell of Michigan, a wildlife enthusiast, introduced the bill in Congress. Dingell included in the Act a provision granting the federal government the authority to protect habitats where endangered species resided, a provision omitted from previous legislative proposals. The bill would later elicit considerable controversy, but the Endangered Species Act received little criti-

cism or opposition in Congress at the time of its passage. The Senate voted 93-0 and the House of Representatives 390-12 in favor of the legislation. On December 28, 1973, President Richard Nixon, engulfed in a series of controversies including Vice-President Spiro Agnew's resignation two months earlier and the ongoing Watergate controversy, signed the Endangered Species Act into law.



Historical Document

Endangered Species Act

Sec. 2 (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the states and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish, wildlife, and plants.

(b) PURPOSES.—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.

(c) POLICY.—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.



Document Analysis

Congress passed the Endangered Species Act to bring attention to the negative effects of economic growth and development on the environment and to prevent the further destruction of fish, wildlife, and plant species. Most importantly, it gave the federal government jurisdiction over any species listed as endangered.

The Act opened with an acknowledgment that the federal government's lack of commitment to conservation had led to the extinction of numerous non-human species, while placing others at risk. The survival of existing species was important. They had "esthetic, ecological, educational, historical, recreational, and scientific value to the nation and its people." The wording of the Act made it clear that non-human species had multiple values for human beings, not just economic. The American people and Congress had a vested interest in protecting species from damage and extinction.

The Act noted that Congress's past failure to protect non-human species domestically was odd given that the United States had signed numerous international agreements and treaties to protect migrating birds, fisheries, and endangered species of wild flora and fauna.

Thus, the government, using "federal assistance and a system of incentives" needed to demonstrate its commitment to conservation equally at the national level as well. The fulfillment of this commitment would benefit the American people and the environment alike. In its conclusion the Act reasserted congressional support for conservation, and encouraged additional commitment towards protecting "endangered species and threatened species."

Essential Themes

The Endangered Species Act of 1973 was significant for a number of reasons. Its passage spoke to the growing interest, both among the public and Congress, in the environment and conservation. It was also the first piece of legislation to infer that species had a fundamental right to exist outside of their economic utility for humans. Furthermore, the Act made it clear that Americans benefitted esthetically, ecologically, educationally, historically, recreationally, and scientifically from ensuring the continued survival of endangered fish, wildlife, and plants.

The Endangered Species Act was a significant legislative victory for supporters of the burgeoning environmental movement. However, its passage proved controversial. The Act prohibited the government from supporting projects that might lead to the extinction of species, a position which later engendered significant opposition from those who benefitted financially from the status quo and who were willing to abuse the environment for economic gain.

Opposition led to litigation, and a case eventually reached the Supreme Court. In 1978 the U.S. Supreme Court declared that a \$116 million federal project at Tennessee's Tellico Dam violated the Endangered Species Act because construction threatened the survival of the snail darter. In response Congress amended the Act by providing for exemptions if a seven-member Endangered Species Review Committee agreed. Overall, however, the Act succeeded in ensuring that a diversity of animal species survived and even flourished. Without the Endangered Species Act many species of fish, wildlife, and plants would be extinct today.

The act has faced challenges over its lifetime, especially from Republican administrations, but by and large it has remained strong. In 2025, however, the second Trump administration planned to significantly limit the ESA's power to preserve critical habitats, partly by redefining what constitutes "harm" if habitats rather than actual animals are killed during commercial development of a site.

—Gerald F. Goodwin, PhD

Bibliography and Additional Reading

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