

Deal will hurry hundreds of species onto endangered list

But US budget could shut down new listings for 2012.

by Emma Marris - JULY 14, 2011

Walrus may finally be added to the Endangered Species Act if a deal between conservation groups and the Fish and Wildlife Service goes ahead. Kevin Schafer/Minden Pictures/FLPA

On 12 July, the US government agency that administers the Endangered Species Act came to an agreement with a wildlife group that has sued them numerous times over the past decade. The Center for Biological Diversity (CBD) in Tuscon, Arizona, will cut back on its lawsuits against the Fish and Wildlife Service (FWS) for six years if the agency takes action on hundreds of species — from the Mojave fringe-toed lizard to the Pacific walrus — by specific dates.

When added to promises the FWS has made to another conservation group (see ‘Wildlife truce divides conservationists’), these actions should clear a backlog of species waiting to have their petitions for listing assessed. And once approved by a judge, the agreement could significantly speed up the sluggish pace of listings during the administration of US President Barack Obama.

But the deal faces a hurdle: the 2012 appropriations bill that funds the federal government says that the FWS can have its budget allocation only if none of the funds are used for listing species or for designating critical habitats.

“It is one of the most dangerous times that has ever existed for the Endangered Species Act,” says Tim Male, vice-president of conservation policy at the conservation group Defenders of Wildlife in Washington DC.



Twisted history

The agreement ties up a series of loose ends left over from a previous round of negotiation that the CBD walked away from. As a result, the final agreement takes the form of two agreements, one between FWS and CBD and the other between FWS and a Santa Fe, New Mexico group called WildEarth Guardians. The two agreements resolve at a stroke many ongoing lawsuits.

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Gary Frazer, assistant director for endangered species at the FWS, says that the agreement will give the agency a much needed “cooling off period”. “What we have had in recent years is a very large volume of petitions that overwhelmed

our capabilities. We missed deadlines. And we got sued.” As a result, he says, the endangered-species programme was too busy to declare anything endangered.

FWS spokeswoman Vanessa Kauffman says that although the settlement will help the agency to clear its backlog, new species can still enter the pipeline. “The listing programme is a citizen-based programme,” she says. “Anybody can still petition us.”

The conservation community seems to be generally positive about the deal. However, Male says that “it is hard to be that enthusiastic about it because congress is proposing a moratorium on listings.” What’s more, the Department of the Interior, the FWS’s parent department, summarily delisted the Rocky mountain wolf and other such actions have targeted other species and populations (see ‘Taken for a ride’). “There are so many radicals in congress, and the United States faces so many other pressures, that people’s ability to focus on issues like this is reduced,” says Male.

Elly Pepper, a legislative advocate at the New York-based Natural Resources Defense Council, is working to get the condition freezing the endangered-species programme stripped from the bill. Even if the rider stays in the bill and makes it to the president’s desk, she’s hopeful it won’t become law. “I don’t think president Obama would sign something like this,” she says. “This rider would essentially nullify the Endangered Species Act for a year.”

If congress can be kept from shutting down the endangered-species program, Suckling thinks that the agreement should be enforceable even if Obama loses the presidential election next year. “Every single time there is a Republican president they try to shut down the listing process,” says Suckling. “Except Nixon. Thank God for Richard Nixon.” President Nixon signed the Endangered Species Act into law in 1973.

But John Horning, executive director of WildEarth Guardians, is not so sure. “Worst-case scenario, both of these agreements are probably null and void and we go back to the trench fight that we have had for a decade plus,” he says. “I am almost certain that that would happen under a Republican administration.”

Both Horning and Suckling promise that their groups will continue to work to protect species during the six years they have promised to back off their lawsuits aimed at getting species listed. But first, Suckling says, “we’re going to go on vacation”. “Ten years of this trench warfare, it is exhausting.”