

Citizen provision found beneficial to US Endangered Species Act

by Helen Thompson - August 16, 2012

That tool, a provision for citizen involvement in the Endangered Species Act (ESA), means that any citizen or group can petition the federal government to list a species that is believed to be threatened. The US Fish and Wildlife Service (FWS), or the NMFS in the case of marine species, is obligated to consider such petitions, some of which list dozens or hundreds of species, subspecies or populations. When petitions are rejected or languish too long the next step is a lawsuit. As a result, some have called the system little more than a revenue generating tool for environmentalists' lawyers.

“One of the greatest obstacles to the success of the ESA is the way in which it has become a tool for excessive litigation,” wrote Doc Hastings (R-WA), chairman of the House Natural Resources Committee, in an op/ed to The Washington Times on 18 May.

That sentiment has now been challenge by a study published today in Science, which suggests citizen petitions are a net benefit. Berry Brosi, an ecologist at Emory University and Eric Biber, an environmental lawyer at the University of California in Berkeley, analyzed FWS data on 913 species petitioned since 1986 based on biological dangers, taxonomic classification, and conflict with economic development. “It’s clear that this citizen provision aspect is a flashpoint for critics, and we were curious if the criticisms had anything to them,” Brosi says.

Citizen-flagged species faced higher threat levels and were more likely to face conflicts with development, compared to those initiated through FWS. Species that were the subjects of lawsuits actually did face greater threats. “In many ways we were surprised that citizen picked species are more biologically threatened. It is interesting in terms of citizens really providing checks and balances,” says Brosi.



According to Gary Frazer, FWS’s assistant director for the Endangered Species Program, the service has long held the same view: “Citizen involvement is valuable and useful. To do endangered species conservation, we need participation from nonprofits and individual citizens,” says Frazer.

The study found that citizen groups initiated slightly more threatened sub-species than FWS’s internal staff. That makes sense, says Noah Greenwald, Endangered Species Director for the Center for Biological Diversity, an Arizona-based advocacy group. Greenwald adds the difference reflects “the local scale of species extinction to some degree, and the fact that citizen groups and scientists are in many ways the local eyes and ears.”

Congress considered putting caps on petitions and species listings in 2011. That same year, a settlement between FWS and two of their most frequent petitioners – CBD and WildEarth

Guardians – put a slew of lawsuits to bed and set up a six-year workplan to look at the needs of more than 250 species. But, in June, citizen involvement recently drew renewed scrutiny, when members of the House Natural Resources Committee investigated whether litigation helped or hindered endangered species.

Frazer agrees that citizen involvement is an essential part of the ESA, but “mega-petitions” can be problematic. CBD’s 10 July petition to list 53 amphibians and reptiles – the highest tally yet for those groups – dispersed across the country has added a bit more fuel to the simmering fire. “We’re a field-based organization. The people that have expertise in these species are going to be scattered across the whole country. Just the coordination required within that initial review is a substantial effort,” says Frazer.

Limited funding and staff resources are a perennial problem, and Brosi is sympathetic: “There really is limited funding for endangered species, and we can’t really list every plant and animal out there. We need to be very strategic and analytical about which species we protect.”