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[HTTP://WWW.COUNTERPUNCH.ORG/2017/02/24/THE-ENDANGERED-SPECIES-ACT-A-CRITICAL-SAFETY-NET-NOW-THREATENED-BY-CONGRESS-AND-TRUMP/](http://www.counterpunch.org/2017/02/24/the-endangered-species-act-a-critical-safety-net-now-threatened-by-congress-and-trump/)

The Trump administration and a Republican-held Congress appear poised to unravel the nation's bedrock environmental laws and programs, including the Endangered Species Act (ESA). The ESA is one of our most effective environmental laws, proven to be vital to protecting species such as the iconic grizzly bear.

Just last week, Wyoming Senator John Barrasso (R-WY) held a hearing on "Modernizing the ESA," a euphemism for weakening the Act to accommodate those interested in making a buck without being held accountable for the damage they cause. Last Congress, over 200 bills were introduced that would have undermined the ESA. A similar torrent is expected this Congress.

Among these, bills to strip protections for wolves in the Great Lakes and Wyoming have already been re-introduced. Not only would wolves be harmed if these bills pass, a terrible precedent would be set by allowing Congressmen to circumvent the Act in the service of their cronies. This has already happened once with wolves in Montana and Idaho, which were delisted by regressive Congressmen in 2011. If it happens again, no endangered species will be safe from congressional shenanigans.

Grizzly bears in Yellowstone, and possibly Glacier, could also be targets for delisting by Congress in a move that would be disastrous for bear recovery throughout the lower-48 states.

The ESA in Brief

When Congress passed the Endangered Species Act (ESA) in 1973, it recognized that our rich natural heritage is of "esthetic, ecological, educational, recreational, and scientific value to our Nation and its people."

Congress further expressed concern that many of our nation's native plants and animals were in danger of becoming extinct. In today's contentious climate, it is easy to forget that the law was passed almost unanimously by Congress, and signed by President Richard Nixon, a Republican.

The ESA is more important than ever. Since the Act was passed, the threat of extinctions has increased: Earth is undergoing its worst mass extinction of plants and animals since dinosaurs disappeared 65 million years ago. This unfolding catastrophe is almost solely due to the increased impacts of us humans, including climate change. Between two and three species disappear every day, with the pace of extinctions likely to increase by 10-fold before the end of the century – to a rate roughly 10,000 times greater than occurred before the Industrial Age. This loss of biodiversity signals a crisis for all living beings, including us.

The passage of the Endangered Species Act represented a pendulum swing away from an ethos of domination characterizing the “frontier mentality,” to one of respect and reverence for nature. After witnessing the widespread eradication of species such as buffalo, wolves, grizzlies — not to mention the genocide of native peoples — many concluded that our society had gone overboard. This helped build a powerful constituency for “saving all the pieces” of our native ecosystems, to quote ecologist and author Aldo Leopold.

The explicit aim of the ESA is to protect and recover imperiled species and the ecosystems they rely on. Importantly, the Act seeks to curb the excesses of state wildlife managers and the masters they serve, who contributed to endangering numerous species in the first place. Moreover, the ESA requires that the management of species be based solely on the best available science, not the conveniences of bureaucrats and politicians.

Over 1600 species have been listed under the ESA by US Fish and Wildlife Service (FWS) as either endangered or threatened. “Endangered” means a species is in imminent danger of extinction throughout all or a significant portion of its range. “Threatened” means a species is likely to become endangered within the foreseeable future.

After a species is listed, the government is charged with developing plans for recovery. Until species are recovered and delisted, federal decision-making must give listed species the benefit of the doubt.

The ESA contains several provisions that have been critical to its success. Under Section 7 of the Act, the FWS adopted a “look before you leap” approach to ensure that projects involving federal lands and resources do not further imperil protected species. Section 9 furthermore requires that the government avoid “taking” listed species, which refers to actions that include not only direct killing, but also harassment and habitat loss. Recognizing that states are important to recovery, Section 6 establishes a program that funds state-related recovery activities. The FWS has also been required to designate “critical habitat” for species listed as endangered since 1983. These designations grant special protections for areas essential to recovery.

The ESA also includes an important provision allowing citizens to sue those who are likely breaking the law, which means any person or organization can file a lawsuit to stop any party, including a governmental agency, that is in violation of the Act. This provision has enabled conservationists to play a critical role in enforcing the ESA, which government agencies are often lax in enforcing.

Effectiveness of the ESA

Put all of this together and we have a remarkably effective law. A whopping 99 percent of the species granted protection under the Act have so far

survived. And a growing number of species, including the bald eagle and American peregrine falcon, have recovered enough to be delisted, meaning they're no longer in danger.

Other ESA success stories include stabilization or even increase of species that were in decline. Among these are American alligators, the eastern population of Stellar sea lions, whooping cranes and California condors. Closer to home, wolves have been returned by the ESA to Yellowstone and Idaho's Selway-Bitterroot ecosystems, and are now numerous enough to be recolonizing lands in eastern Oregon and Washington.

Although still threatened, the grizzly bear is also testimony to the effectiveness of the ESA. Without the safety net provided by the Act, grizzly bears would likely have winked out in the last 3% of the range that they formerly occupied when Europeans first stepped on the continent ([link](#)). With such incredible successes, you might ask why the ESA is threatened...

Why The ESA is Threatened

For many years, industry interests, conservative ideologues, and their supporters in Congress have sought to gut the ESA. At last week's hearing, Senator Barrasso listed the major contrarians as "states, counties, wildlife managers, home builders, construction companies, farmers, and ranchers who feel the Act is not working..." In the House, ESA opponents have an ardent champion in Rep. Rob Bishop (R-UT), Chairman of the House Natural Resources Committee, who recently vowed to repeal and replace the law.

Opponents are driven by basic ideology, rather than real economic problems with implementation of the Act. (More on this below). A recent report by Defenders of Wildlife showed that FWS consultations under Section 7 almost never stopped commercial developments ([link](#)). But to ESA opponents, that is not the point: any limitations for the sake of species

recovery are unacceptable. To them, the world represents a zero-sum game.

ESA opponents also make much of the fact that less than 50 out of 1600 listed species have been delisted because they had been recovered. Yet it often took many decades, even centuries, for species to decline to the point when emergency protections were granted: quick recovery cannot be expected.

Exacerbating this problem is the FWS' tendency to view ESA successes as only those that have led to species being delisted – not species that have stabilized because of actions taken under the Act. This puts undue emphasis on delisting decisions, and creates unnecessary controversy. Indeed, the FWS tends to be its own worst enemy.

In fact, many legal victories are won by conservationists because the FWS makes glaringly stupid decisions, often in efforts to placate hostile states or industries that will never be content with any protective measures. For example, in 2011, the FWS greenlighted a state wolf plan written by Wyoming that called for a free-fire zone allowing the slaughter of wolves in 85% of the state, including vast tracts of wilderness containing habitat that would connect isolated wolf populations in the region.

Attorneys at Earthjustice brought a successful case that resulted in a court order to relist Wyoming's wolves. Point being that the FWS should have required a more rational — and legal — state plan in the first place. Now, rather than demanding that Wyoming fix its problem, Wyoming congressmen are trying to circumvent the Act and delist wolves legislatively.

Why is this happening? There are several apparent reasons, all of them perverse.

Two Wrong-Headed Myths About the ESA

Two unsubstantiated myths have been promulgated about the ESA.

Foremost is the entrenched “species vs people” story. This story has its roots in some early controversies, the first of which involved a small endangered fish called the snail darter. Not long after, controversy arose surrounding the black footed ferret, which served as my entree to ESA issues while still a graduate student.

Ferrets were thought to have been extirpated in the wild, but in the early 1980s, a dead ferret was found by some ranchers near Meeteetse, Wyoming. Ferrets rely on prairie dogs for food, and so need large expanses of prairie, which here meant private ranches and adjacent public land.

Even though local oil and gas and ranching industries were not adversely affected by efforts to recover the ferret, organizations representing these interests seized on the opportunity to frame the “story” as being about ferrets versus local economies – by all indications fabricated out of ideological and political agendas rather than any concrete reality (sound familiar?).

But the press readily latched onto the endangered species vs people formula because it fit into a simplifying dramatic narrative.

Next enter state wildlife managers and their political masters to add a second mythical story that has, unfortunately, also become widespread. The nub of this narrative is that states, not the federal government, should lead recovery efforts because they are closer to the ground. Yet all too often state politicians and managers were largely responsible for creating the conditions that led to species needing ESA protections. Nonetheless, after enough repetitions, both stories became part of an overarching mythology surrounding the ESA.

And then there are distorted views about the costs and benefits of recovering species...

Costs and Benefits of Recovering Species

Much attention has been paid to the economic costs and benefits of ESA protections. But economic analyses are too often distorted and otherwise biased in favor of extractive industries. Non-consumptive, benign, and indirect economic benefits are correspondingly short-changed. These include tourism and the current trend toward settlement of retirees and footloose businesses in places such as Yellowstone and Glacier, in part because they harbor iconic endangered species such as grizzlies and wolves.

Notably, an academic named John Loomis, who on two occasions compiled all the known studies on monetary valuations of endangered species, found that “...for even the most expensive endangered species preservation effort (e.g., the northern spotted owl) the costs per household fall well below the benefits.”

Moreover, the direct economic benefits of species recovery can be substantial. Wolf watching in Yellowstone is estimated to bring \$35 million annually to communities surrounding the Park, which have lost historically dominant logging and mining industries. A recent study found that tourism – with seeing grizzly bears and wolves at the top of visitors’ wish lists – is a billion-dollar enterprise in Yellowstone. All of this is consistent with a burgeoning of self-identified wildlife watchers at the same time that numbers of hunters are in decline, along with a profound shift in the economic benefits of catering to one group versus the other.

Perhaps more importantly, in my experience economics are not as critical as fundamental world views in defining attitudes towards the ESA.

Attitudes Towards the ESA Mirror Personal Worldviews

The Act's opponents tend to view any inconvenience to accommodate endangered species — no matter how small — as a problem because governments should be solely concerned with providing unfettered opportunities to maximize profit while minimizing any account of associated harm.

By contrast, ESA supporters tend to hold more self-transcendent views. They invariably believe that exterminating species is selfish and wrong, and that we have a duty to share the planet with our fellow beings.

Not surprisingly, both sides frequently harness scripture to bolster their arguments. ESA supporters note that all species were created by a higher power, and that humans should not play God by destroying the Creator's gifts. God told Noah to build the ark for ALL species, and did not leave wiggle room for ditching even bothersome species such as poisonous snakes. A letter published last week in *The Hill* by Cassandra Carmichael beautifully encapsulated this argument. ([link](#)).

On the other hand, ESA opponents dwell more on God's directive for humans to "be fruitful and multiply" and, with that, presumably have the prerogative to wreak havoc on God's creation. Many evangelical Christians, who constitute Trump's core base, share this view, as well as the President's conclusion that environmental regulations are "out of control."

Not only do peoples' views on the ESA tend to track their basic ideology, conservatives are more populous in the rural West, where many charismatic yet imperiled species live.

Three ESA Lessons

In over 30 years of ESA experience, I am struck by three key lessons.

First, the ESA plays a critical role in providing a voice for the broader national public. The Act gives the public, no matter where they live, a say in the conservation of endangered species. This is especially important with

species of national significance, such as wolves and grizzly bears, which live where local communities can be hostile.

With non-listed species, the only voices that matter are of those people residing in the states where the species live – and in reality, of these, only a miniscule subset of people who share the pro-hunting and pro-ranching ethos of state politicians and wildlife managers truly have a say.

Second, saving one species can save countless others. Some ESA successes in particular underscore scientists' view that saving one species can save many others. Because each plant or animal is part of a larger ecosystem, preserving any one can create a beneficial ripple effect.

The gray wolf is a great case in point – and a major focus of my past advocacy work. After wolves were reintroduced to Yellowstone National Park in 1995, researchers found far-reaching ecological effects. Wolves helped reduce previously high numbers of elk, which allowed browse species such willow and aspen to rebound. The branches and leaves of these trees cool the streams, which boosted native trout, provided homes for migratory birds, and supplied more food for beavers. The dams built by the beavers created better marshland habitat for otters, mink, and ducks.

In short, the experience in Yellowstone reinforced broader scientific findings about the important role that predators play in maintaining ecosystems, while demonstrating, once again, that everything in nature is connected to everything else.

Third, in 1973, the Act's authors did not know what scientists have since emphasized: that species like the grizzly bear and wolverine will require on-going conservation efforts because they are especially vulnerable to extinction. Such "conservation-reliant" species are often large-bodied, sensitive to human-caused mortality, and in need of vast wild habitats ([link](#)). And, they tend to be slow to reproduce, so low death rates from any

cause can wipe them out. That means that such species must always be managed with a cautionary yellow light.

Unfortunately, there are no alternative legal systems to the ESA, state or federal, that require precaution and the application of the best science in conservation practice. This is likely to remain the case for the foreseeable future.

Where to from here? Fortunately, there is a better way...

A Better Way

A few simple things can help improve how the ESA works. First, Congress should not meddle with implementation of the ESA; politicians don't have the experience, scientific expertise, or often the required generosity of spirit. Deference should indeed be given to experts operating at the behest of the more than 90% of voters who support the purpose and ethos of the ESA (see below).

Second, the success of the ESA should not be measured by whether a species is delisted. The FWS, with help from the states and communities, can be doing an incredible job of stabilizing a species, which may never be ready for delisting due to out-of-control threats such as climate change.

Third, more emphasis should be given by the FWS to the broad public support for the Act and species recovery, rather than the interests of a minority of special interests. Every poll conducted on the ESA shows enthusiastic and unwavering support. A 2015 poll found that 90 percent of registered voters, regardless of affiliation, support the law ([link](#)). And last year, another poll found that 74 percent of American adults support doing whatever it takes to protect the environment ([link](#)). The FWS and others could do more to harness this support instead of trying to placate implacable opponents.

Fourth, to succeed, the FWS must be given the funds it needs to implement the ESA. Cost estimates show that FWS needs \$2.3 billion over 10 years for this work, similar to the subsidies to oil and gas companies for extracting fossil fuels on public lands ([link](#)). Anti-ESA congressmen have greatly impeded the FWS's work by starving the agency financially, and using the inevitable problems that arise as if proof that the ESA is not working. We need to challenge this cynical ploy and push for adequate funds to achieve the recovery of more species.

Finally, we, the public that supports saving species and ecosystems, cannot afford to remain silent. The ESA needs watchdogs and defenders now more than ever. The political power of corporations and conservative ideologues cannot be overestimated. Nor can we expect even the most dedicated public servants to withstand the intense bullying of anti-ESA interests and their friends in Congress and the Administration.

Here are a few groups doing great work to defend the ESA:

Earthjustice at www.earthjustice.org

Endangered Species Coalition at www.endangered.org

Center for Biological Diversity at www.biologicaldiversity.org

Next week, a closer look at grizzly bears under the ESA...