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# The Endangered Species Act: A Proposed Revision to Protect the Public

By Kira Zimmerman, Class of 2019

The 1973 Endangered Species Act calls for the protection of ecosystems, the conservation of endangered and threatened species, and the enforcement of all treaties related to wildlife preservation (Boyle, Kutler, 2003). Animal endangerment brought to public attention that human activities like hunting, agriculture, pollution, and development may be the main causes of animal extinction and set forth a public outcry for the government to take action (Cooper, 2001). The government created the Endangered Species Act to help preserve threatened plants and animals. In order to save plants and animals from extinction, the Endangered Species Act allows for the government to take whatever action it deems necessary; this may include restrictions or limitations on hunting, land use, development, deforestation, and regulations on pollution (Simmons, 1999). In order to effectively protect the environment, the Endangered Species Act will need to make vital amendments.

A professor at the University of Utah once wrote in a peer-reviewed article, “[t]he E.S.A. [the Endangered Species Act] is, in fact, dishonest legislation. Species are listed but not recovered, and the costs carrying out the act’s public purposes are disproportionately borne by private landowners” (Simmons, 1999). In writing this, Randy Simmons is referring to how ineffective the Endangered Species Act is in the recovery of a majority of creatures on the Endangered Species List. Simmons is also writing about how the government’s actions have caused harm to communities and landowners who are forced to sacrifice their land for the benefit of wildlife. While The Endangered Species Act was created on behalf of endangered or threatened wildlife and has made a difference in the populations of animals on the Endangered Species list, the act has also made a difference in hurting the lives of many Americans who were unfortunate enough to have to face the costs of the government’s reaction to endangered animals. If there is an endangered animal, or there is a high probability of an endangered animal, on a landowner’s property, then the government has the right to seize that property (Mehmood & Daowei, 2005). This has become an issue for farmers, industries, and local economies that rely on resources the government has reserved solely to help endangered species. For every endangered species in America, the government must make critical decisions regarding the livelihoods of humans in order to potentially help a few threatened animals. The Endangered Species Act should be altered in such a way that does not affect the quality of life of the public.

An example of the cost to landowners occurred in 2007 on the Oregon-California border in the Klamath basin. For decades, farmers in the area relied on the canals and dams from the Klamath to divert water into their fields. In a normally dry area, the diverting of water from the basin became crucial for the agriculture community surrounding Klamath. That April, there was a particularly large drought and the community relied on the irrigation of the basin more than usual. When the government established that there were two species of endangered fish (types of suckerfish and salmon) living in the upper part of the Klamath basin, the canals were closed and the basin became a preserve in the hopes that the fish would survive the dry spell. However, without the water during key growing season, the farmers' crops withered (Sayre, 2005). The community was outraged and the local economy suffered drastically. An entire community suffered because a few fish may have potentially been helped by having a bigger basin to swim in. Communities and economies should not be allowed to suffer so much. The government has to fix the Endangered Species Act so that people are not harmed as it helps wildlife.

The black-footed ferrets' protection illustrates property owners being impacted in an indirect way. In the south, the protection of black-footed ferrets has created problems for ranchers. The ferret's main prey is the prairie dog, which is considered to be a pest by ranchers. In the 1980's, prairie dogs were being exterminated by the thousands because their colonies were covering entire fields, making it difficult for cattle to graze. In order to save the

black-footed ferret, the U.S. government set hunting regulations on the prairie dog. Ranchers are left to deal with the mass population of prairie dogs as they are only allowed to remove a small number from their property at a time. Like ground hogs and rabbits, prairie dogs burrow large holes into the ground that are dangerous to roaming cattle. Cattle can trip and become injured or break their legs because of prairie dog holes (Sayre, 2005). With prairie dog colonies so abundant, ranchers are left to suffer the consequences of the government promoting the ferrets' habitat. Circumstances like these demonstrate the importance of retailoring the Endangered Species Act so that it will be less destructive toward property owners. With as much damage as the Endangered Species Act does to landowners and businesses, it is unsurprising that the Act does not receive the amount of support that it needs to be successful.

Part of the problem with the Endangered Species Act is that it inevitably relies on the support of landowners. Without the support of landowners it can be difficult to establish where there are colonies of endangered animals (Ferraro, McIntosh & Ospina, 2007). However, they are discouraged from revealing that they have a rare or endangered animal on their land because it could result in the "uncompensated loss of land" (Smith). Governmental restrictions may be passed, but are not always obeyed. Just because the government qualifies how the land is used or what cannot be done on the property, it does not mean the owner will not try to find a way around it. To avoid the

bureaucratic hassle, sometimes it is easier to find your own solution (Sorice, 2012).

The Endangered Species Act goes against the constitutional right to property. Property rights advocates believe the act empowers government to unfairly halt building development and other activities on private property. The binding federal restriction on private lands has the potential not only to damage economies, but also take away constitutionally guaranteed freedom. The Endangered Species Act is a violation of property rights because the government is able to seize property and hold absolute authority over what can and cannot be done on that property.

The Constitution has been adjusted for eminent domain, which is the government's ability to seize private property if the property will be used to support the public or provide for the general welfare. Within the Fifth Amendment of the Bill of Rights, the Constitution states, "nor shall private property be taken for public use, without just compensation" (United States Constitution, 1787). The government's use of eminent domain for the general welfare of a few animals is unusual; while eminent domain that supports the public results in compensation for the lost property, when it is used to support animals, the owners are not compensated. The uncompensated loss of land could potentially harm the general welfare of the public, or more specifically, property owners. Using private property to recover species that are at risk has created a debate that is pitting environmentalists against property-rights advocates.

“In a quarter-century, not one, single species has recovered and been delisted solely because of the act,” argues R.J. Smith, a senior environmental scholar for the Competitive Enterprise Institute and Center for the Study of American Business at Washington University. Smith demonstrates the misconception that the Endangered Species Act has not been much of a success in helping wildlife by only judging the direct effects of it. The act has made little contribution to the protection of wildlife by itself; however, the Endangered Species Act has raised awareness about the problems faced in many ecosystems. Because of the Endangered Species Act, attention has been brought to wildlife and the causes of animal endangerment, such as habitat destruction, pollution, over-hunting, and lack of food.

One of the most well-regarded species success stories involves one of the first animals to be added to the list of endangered species, the bald eagle. The symbol of patriotism, the bald eagle’s survival was important to many Americans. The Endangered Species Act “empowered the U.S. Fish and Wildlife Service (FWS) to promote the bird’s recovery through captive-breeding programs, prosecution of eagle hunters and protection of nesting sites” (Cooper, 2001). These actions have allowed the bald eagle to be removed from the endangered species list, and it now thrives in almost all 50 states. Without the Endangered Species Act, this may have never been possible and the bald eagle would not have been spared the same fate as the dodo bird and the passenger pigeon. Although the Endangered Species Act has

benefited many endangered species, the welfare of these animals has come at a cost.

In order to encourage landowners to become involved in the protection of wildlife, the government should consider solutions to compensate landowners for their cooperation and for helping the environment at the expense of losing property. One solution for this problem might be to offer landowners tax breaks for their support of the Endangered Species Act (Sorice, 2012). The landowner could be excused from having to pay property taxes and other possible taxes that coincide with the regulated property. Another solution might be that the government could reimburse the landowners partially, if not fully, for their lost property (Sorice, 2012). Landowners would be more willing to cooperate with the Endangered Species Act if there were an opportunity for financial gain (Raymond, 2006). If the Endangered Species Act is supported by property owners, then it has the potential to be more successful. I also believe that the government should critically consider a cost-benefit analysis when determining what species require to survive and how those requirements will affect people. This way, the demands made of landowners can be lowered, which may potentially benefit both property owners and the environment.

The government has to re-tailor the current Endangered Species Act so that it is better able to support property owners and be more effective in aiding threatened animals. What is presently expected of landowners is



unethical because of the damage done to communities and economies. If these changes were to happen, the Endangered Species Act would have the potential to be even more effective. With thousands of animals protected by the Endangered Species Act and hundreds more added every year, it is more crucial than ever to revise the Endangered Species Act.

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