



Outdoor Tales: Endangered Species Act turns 30

By AL KALIN, Staff Columnist

The Endangered Species Act, which Richard Nixon signed into law on Dec. 28, 1973, turned 30 years old this week.

Although the original intent of the law was good, after 30 years of use its track record is dismal at best while a whole new industry of environmental law has been created whereby environmental groups, which are staffed with more lawyers than biologists, live off private donations and judgments from the court so they can file more lawsuits instead of using the money to help the endangered critters that they went to court to protect.

In short, it has turned into a method of legal extortion to fill the pocketbooks of the lawyers as well as the war chests of the environmentalists at the expense of you, the taxpayer, whose taxes are used to pay the lawyer fees on both sides from the federal government losing cases filed under the Endangered Species Act.

The Endangered Species Act is one of the most comprehensive and probably the most controversial of all U.S. environmental laws. Its purpose is to save all species, which is done by compiling and listing all species that are either designated as "threatened" or "endangered."

Once a species is listed as either "threatened" or "endangered," any action by any party, public or private, which harms the species in any way is prohibited by law.

In listing a species, the economic impact cannot be considered. Many have wondered if this is an abuse of federal power.

There are more than 1,300 species of plants and animals that have been listed under this act during the last 30 years. Ninety percent of these species are found on private lands. According to the wording of the inflexible Endangered Species Act, the cost of protecting the habitat for the endangered species must be borne by the landowner. This makes it unattractive for the landowner to carry the burden of cost associated with furnishing habitat for the species no matter what its cost. In addition, it drastically reduces the market value of the owner's property.

Because the act requires "all species" to be saved it makes it difficult to allocate funds where they would do the most good. Budgetary constraints also place a limit on the number of species that can be listed in a given year, and to compound the problem, environmental groups have filed so many lawsuits that the federal government can only address the needs of those species that have lawsuits filed against them. All other species that could benefit from proper management are left hanging in the wind for lack of funding for critical habitat. In fact, there have been so

many lawsuits that the federal critical habitat program went bankrupt this year.

In practice the act is prohibitive rather than incentive-based and has led to a common strategy by landowners known as "shoot, shovel and shut-up" anytime landowners figure the listing of a species would limit the use or value of their property.

The inflexibility in the treatment of endangered species sometimes gives them priority over human beings but does nothing to improve the situation. In the Klamath Basin recently it was determined the endangered sucker fish needed water more than the area's farmers needed it to irrigate their crops and feed their families. The result was a devastating loss of family farms, human life and economic vitality.

In a similar case the weakened Arboga Levee in California could not be repaired because work on the levee might disturb the habitat of the endangered longhorn elderberry bark beetle. As a result a huge flood broke the levee at the exact point where repairs were needed and three humans lost their lives. The list of horror stories that defy logic goes on and on.

More than 1,300 species have been listed as threatened or endangered since the act's inception. But not one single species has recovered as a result of the ESA alone. In other words, after 30 years, the ESA is batting zero and nothing can be done to improve the situation the way the law is currently written.

Those species that were listed and have made a comeback have done so through proper management techniques and not because of the Endangered Species Act.

It would appear the Endangered Species Act needs to be scrapped and rebuilt from the ground up. Any new law needs to shun the bounty hunting techniques used by environmentalists and their lawyers. It needs to stop rewarding those who sue just to make more money to sue again and again without any of the awarded money going toward helping the species that truly needs protection.

The new law should center on legislative reforms that promote the science, technology and innovation that has made our country successful in other endeavors.

And finally, and most importantly, the new law should reward private landowners who provide habitat for endangered species and help in the proper management of the species. It should not threaten them with heavy fines.

Do this and the money hungry environmental extortionists will become the endangered ones.

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