

If the Endangered Species Act Doesn't Adapt, It Will Go Extinct



By Alex Berezow, PhD — October 19, 2017



Credit: Public Domain/Wikipedia [1]

Every so often, the world debates whether or not it should exterminate the only known samples of smallpox. So far, we always have decided to keep them around, just in case we need them for research or vaccine development.

To end this debate once and for all, David Boze wrote a [piece](#) [2] for *American Spectator*, in which he proposed that we declare smallpox an endangered species. His tongue-in-cheek article highlighted some of the absurdities of the Endangered Species Act.

For instance, for a species to be declared "endangered," only one of five criteria have to be met. According to the [U.S. Fish & Wildlife Service](#) [3] (USFWS), those criteria are:

- the present or threatened destruction, modification, or curtailment of its habitat or range;
- overutilization for commercial, recreational, scientific, or educational purposes;
- disease or predation;
- the inadequacy of existing regulatory mechanisms; or
- other natural or manmade factors affecting its survival.

Currently, the U.S. has listed [1,656 species](#) [4] as endangered or threatened. But with such broad criteria, the real mystery is why there aren't several thousand more. The criterion "other natural or manmade factors affecting its survival" could apply to just about any species on Earth. So, we might as well add smallpox to the list.

Did the Endangered Species Act Work?

Let's set aside the flimsiness of the inclusion criteria and ask a more important question: Did the

Endangered Species Act work? In other words, did the ESA accomplish what it sought to accomplish, namely the successful protection of species on the brink of extinction? The answer probably depends on whom you ask.

One [study](#) [5] found that the longer a species has been listed, the more likely it is to recover. The ESA has also prevented most of them from becoming extinct, however, [only about 28 species have recovered enough to be de-listed](#) [6]. Thus, the Endangered Species List is sort of like the Roach Motel -- species check in, but they don't check out. That might imply that the ESA isn't working.

Some environmentalists contend that, despite receiving [\\$1.4 billion annually](#) [7], endangered species need more funding. But that is not convincing. The solution to mismanagement is rarely more money. (See the K-12 education system, for a case-in-point.) Instead, the solution is smarter management. Arguably, the ESA has not been smartly enforced, and in some cases, [it has been abused](#) [8].

Consider this nightmare story by a landowner who has found himself held hostage by an endangered species. *Weyerhaeuser Company v. United States Fish and Wildlife Service, et. al.* is about 1,544 acres of land in Louisiana confiscated by the US Fish and Wildlife Service for the benefit of environmental advocates for the Mississippi gopher frog. The problem, according to [AgWeb](#) [9], is that the frog doesn't actually live there. It may have at one time, no one knows, but it hasn't even been in that whole state in over 50 years. To add yet another Kafka-esque twist, while the government can take away property rights without compensation, they cannot force any owners to reintroduce the frog - they just will not allow them to use their land unless they spend \$34 million to tear down the natural forest and replace it with the one government wants. So, nobody wins -- neither the frog, nor the humans, unless the human is a lawyer. The lawyers always win, and the taxpayer foots the bill for the lawsuits fought by US FWS.

Ironically, the ESA also has unintended consequences. The authors of *Freakonomics* [argue](#) [10] that habitat destruction actually increases in the short-term after a species receives endangered status. Why? Because people rush to develop their land, just in case their property is designated as critical habitat.

A mixed success record, abuse, regulatory mismanagement, and unintended consequences. Combined, these make the case that the Endangered Species Act is not working as intended. Though calls for its [repeal](#) [11] are a bit extreme, those calls will only grow louder if the injustices to landowners remain unaddressed. The ESA must adapt, or it might find itself extinct.

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Links

[1] https://en.wikipedia.org/wiki/Endangered_species#/media/File:Bufo_periglenes2.jpg

[2] https://spectator.org/37477_save-smallpox/

[3] <https://www.fws.gov/endangered/what-we-do/listing-overview.html>

[4] <https://ecos.fws.gov/ecp0/reports/box-score-report>

[5] http://news.nationalgeographic.com/news/2005/04/0418_050418_endangered.html

[6] <http://www.politifact.com/truth-o-meter/statements/2013/sep/03/cynthia-lummis/endangered-species-act-percent-taken-off-list/>

[7]

http://www.slate.com/articles/health_and_science/science/2017/05/the_endangered_species_act_wasn_t_meant_to_s

[8] http://www.realclearpolicy.com/articles/2017/07/17/reform_dont_repeal_the_endangered_species_act.html

[9] <https://www.agweb.com/article/private-property-rights-collide-with-invisible-frog-naa-chris-bennett/>

[10] <http://freakonomics.com/2007/01/06/is-the-endangered-species-act-bad-for-endangered-species-john-list-thinks-it-might-be/>

[11] <http://www.hcn.org/articles/house-republicans-may-try-to-repeal-and-replace-the-endangered-species-act>