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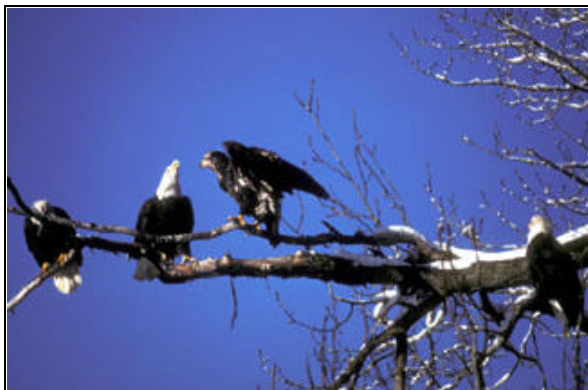
## 1. ENDANGERED SPECIES: Even success breeds controversy for ESA listings

Arthur O'Donnell, *Land Letter* editor

The American bald eagle is not only an icon of the nation, it is also a symbol of the success of the Endangered Species Act in helping restore sustainable populations of once seriously threatened animals and plants. In preparation for removing the bald eagle from the endangered list later this year, the U.S. Fish and Wildlife Service this month released its latest national survey of the eagle, finding 9,789 breeding pairs in the lower 48 states, compared to a low figure of 417 recorded in 1963.

According to FWS endangered species specialist Valerie Fellows, the turning points in the eagles' rebound from the edge of extinction came after the 1962 publication of former FWS staff biologist Rachel Carson's seminal book, "Silent Spring," which identified the chemical pesticide DDT as a leading factor in falling birth rates among eagles because their egg shells were too weak to allow the birds to hatch. There were other problems, including poisoned bait meant to kill wolves and other predators throughout the West.

But when the federal government first provided special protections for bald eagles in 1967 and then banned DDT in 1972, Fellows said, it began a 40-year process that will result in formalizing a decision to delist the birds by June 29. The ruling comes as part of a court-ordered settlement.



The latest FWS survey of nesting eagles shows more than 9,700 pairs across the lower 48 states, making the eagle a symbol of the success of the Endangered Species Act. Photo courtesy of FWS.

breeding pairs of eagles remain an endangered population segment apart from the approximately 20,000 eagles in the rest of the country ([Land Letter](#), Jan. 11)

In addition, a group of 13 Native American tribes in Arizona last week also threatened to sue FWS, saying they had not been properly consulted regarding the delisting plan.

At issue is a dispute over whether the Arizona birds represent a "distinct population segment" that deserve continued protections. FWS's position is that the birds are the same as all others and can intermingle, thus they do not need special status under ESA.

In addition, Fellows told *Land Letter* the bald eagles and their nests and habitats will continue to receive protections under other federal laws. And while delisting will divert funding for monitoring programs to other species, that fact of the matter is that, "for the last decade state agencies have been providing the money to monitor bald eagles," she said. "Eagle programs will still be eligible under federal/state grant programs. But the eagles' rebounding has been a big success story. It's time to put these funds toward other species that face extinction," Fellows said.

Kieran Suckling, policy director of the Center for Biological Diversity, countered that FWS has ignored its own scientists and an

Today, FWS says, Americans can see bald eagles in every state in the continental United States, including Vermont, which had no eaglets born in the state until last year.

According to the newest figures released this week, Minnesota has the most nesting pairs with 1,312, followed by Florida with 1,133 and Wisconsin with 1,065 pairs.

The agency highlighted the eagles' recovery as a way to commemorate both the 100th anniversary of the birth of Rachel Carson on May 27 but also the formal designation by Congress of May 18 as Endangered Species Day.

Despite the apparent success story, it is clear that not everyone agrees with the decision to remove all eagles across the nation from the ESA list.

The Tucson, Ariz.-based Center for Biological Diversity and Maricopa Audubon earlier this year sued the government over the delisting of eagles in the Southwest, claiming that Arizona's 43

appointed review panel, which urged continued listing of the Southwest populations. He sees it as part of the larger and continuing problem that the agency and the Department of Interior have politicized decisionmaking with regard to endangered species -- an allegation that has picked up momentum following congressional hearings and an Office of Inspector General's report faulting Interior officials' actions ([Land Letter](#), May 10).

More recently, a group of 67 members of the House wrote a letter to Interior Secretary Dirk Kempthorne on May 15, objecting to any administrative revamping of ESA regulations, as had been portrayed via documents leaked to the media in March. "The proposal, if it were to become final, would remove protections for endangered species habitat, limit the listing of new endangered species, and allow logging, development and other industrial practices to continue even if those activities threaten an endangered species," the lawmakers said. They "strongly" suggested that Interior drop its attempts to rewrite the law without direct participation of Congress.

## Political interference with science

"FWS has suppressed documents, refused to recognize them and pretended they didn't exist," Suckling said. But during the course of discovery in its lawsuits against the agency, CBD uncovered clear evidence that scientific positions were being overruled by political decisions.

And the bald eagle is just one example, he said. "There are a large number of species on the list today that could be delisted with no controversy," he said. He cited the California brown pelican as one example of an endangered animal that has made a remarkable comeback in recent years, with up to 200,000 nesting pairs now documented. When the Eastern brown pelican made a similar recovery in the mid-1980s, it was removed from the endangered list, but the Pacific coast species remains.

"Why is FWS not working on that? Because no one in industry cares. Rather than focusing on the large number of species that are fully recovered and could be delisted, they are focusing on what industry is pushing." He cited the delisting of Rocky Mountain gray wolves and Yellowstone area grizzly bears as examples of the trend -- pushing delisting because it favors livestock and hunting.

Michael Robinson, head of CBD's carnivores program, echoed Suckling's assessment. "We don't believe the agency is looking at science objectively. There is a culture within FWS that is adverse to real conservation," he said. "There are delisting proposals that we support, but we are opposed to the grizzly bear delisting. The grizzly bear is in serious trouble and now is not the right time to delist them. Delisting at this point is obviously politically motivated," Robinson said.

Similarly, he said that FWS is planning to remove Rocky Mountain wolves and large portions of land from protections, "because of competing uses by livestock" and others, even though the agency knows that when management is turned over to states there will be wholesale killing of wolves ([Land Letter](#), March 22). The agency remains at an impasse with Wyoming over wolf management post-delisting, but it is preparing to remove wolf protections in Idaho, Montana and Colorado.



A young California brown pelican in its nest represents another species that has made a strong comeback but apparently is not a federal priority for delisting, environmental activists allege. Photo by Donna Dewhurst. Courtesy of FWS.

The point was underscored this week, when a group of 230 wildlife biologists, ecologists and other researchers signed a letter opposing the plan to delist wolves in Wyoming, Idaho and Montana. The letter cited state management objectives that would reduce the current population of about 1,300 wolves to just 300, with 30 breeding pairs.

## Does litigation divert resources?

Another problem for FWS is that it constantly faces litigation over its decisions -- whether they involve listing species or failing to list them. According to Martha Balis-Larsen, chief of the office of program support for endangered species, nearly the entire \$17.8 million annual budget for listing activities is driven by litigation, notices of intent to sue, and court ordered deadlines. That money could instead be spent on listing activities for the 279 species that have been classified for consideration, she suggested.

Suckling scoffed at the notion. "They try to imply that their budget is diverted to the courtroom, when the budget is being spent on listings and critical habitats. They are complaining that courts have ordered them to do their job," he said. "If they simply stopped overruling their biologists, dozens of species could have been listed.

He also claimed the group has offered to settle its suit against the entire candidate program, if the agency would agree to a program for reviewing prospective species over a five year period. Although that would prevent further litigation, he said, the agency has refused to settle on those terms.

Despite its opposition to these high-profile cases, CBD says it wants the public to understand how the Endangered Species Act has substantially aided the recovery efforts for scores of listed species. The group has a [Web site](#) devoted to "100 success stories" that provides profiles of animals and plants that have made great strides because of the protections offered by the act.