

ENDANGERED?

WHAT IS, WHAT ISN'T, WHO SAYS.



GRIZZLY BEAR CUB © ERWIN & PEGGY BAUER, TOM STACK & ASSOCIATES

“America has matured to the point that we are no longer willing to sacrifice the end product of eons of evolution—a species or subspecies of wildlife—on the altar of the god called progress without putting up one darned good fight.” NATHANIEL P. REED, ASST. SEC., U.S. FISH & WILDLIFE SERVICE, 1971

A RANGE PUBLICATION

WITH ASSISTANCE FROM THE NEVADA RANGELAND RESOURCES COMMISSION,
T. J. DAY & PARAGON FOUNDATION



A lone whooping crane flies over the marsh of the Aransas National Wildlife Refuge in Texas. Though whooper numbers are stable, there are less than 200 in the wild. Most spend the winter in a single flock at this single coastal refuge. One chemical spill from any of the daily barges using the intercoastal waterway that cuts through their feeding grounds would wipe this flock off the map. Photo © Joel Sartore

DEEP IN THE HEARTS OF AMERICANS THERE WAS A SENSE OF LOSS AND RESPONSIBILITY FOR THE NATURAL ENVIRONMENT. WHAT WE WANTED WAS TO SAVE ENDANGERED SPECIES. BY TIM FINDLEY

REFUGE

I still remember seeing them myself that afternoon on the southern plains of Colorado when I was just a boy. We had heard them and searched that ache-blue sky for some sight of those long calls, like geese, but carrying over another breath or two as we paused and looked. They seemed invisible miles from us, and then at last when they appeared in a squadron of mighty wings on stretched white pencils of form, we stopped and cupped our hands over our eyes. Whooping cranes, an awesome and rare sight even then in the late 1950s, sailed over us as if they owned the sky.

With an instinct I have long since regretted and calmed, I felt that I wanted one of those incredibly magnificent birds, just to show I was a witness to it, almost as if to prove I had somehow stepped back in time.

I knew they were well beyond the range of my 4.10, but with the rash insensitivity of youth, I fired a long leading, hopelessly wild blast. And then we all just watched, trying to implant in our minds a story we could tell forever, as they soared past our horizon, leaving long clear calls beyond when we could any further see them. So I understood as I thought some others could not when the campaign to save the cranes really took hold in 1966. I even still felt guilty for firing that stupid shot. I had seen something that might never be seen

again, as much as I wished, and I hated anyone who might be more successful than I was at taking a part of it away. That, as much as anything, is the story of how the Endangered Species Act began.

The Endangered Species Act (ESA) evolved in the United States through at least three distinct phases, each noted by a species that seemed to capture public imagination.

Grus Americana

Robert Porter Allen was a dedicated ornithologist appointed by the National Audubon Society in 1946 to trace the migratory routes and nesting areas of whooping cranes known to winter in Texas. He would search thousands of miles, crisscrossing the remote wilderness of Canada and the Northwest Territories in his quest, until finally in 1954 a forest fire in the far northern edge of Alberta Province drew his attention to the first confirmed nesting site of the bird scientifically classified as *Grus americana*. With some irony, it was in Wood Buffalo National Park, the unique region set aside in 1922 as a refuge for the bison.

By the time Allen found the nesting origin for the whooping crane, surely every school child already knew the sad tale of the buffalo, brought to what many expected to be imminent extinction from the wanton slaughters of the 19th century. The shame of that was already part of popular culture in the flickering movies and the picture books retelling of how the bison were eliminated from the Great Plains. Americans especially were aware that human excess and greed could destroy an entire species, and their guilt felt from that was evident from the buffalo on one side of a coin that held the image of the Sioux Chief Red Cloud on its opposite face. The message was respect, not conquest. Deeper in the hearts of Americans than of any other national cultures there was already a sense of loss and responsibility for the natural environment.

Allen, a dedicated researcher and truly a pioneer in environmental science, used his work with the whooping crane to inspire Congress in 1966 to pass the Endangered Species Preservation Act. He called upon the Secretary of the Interior for the first time to

make a list of endangered fish and wildlife and authorize U.S. Fish & Wildlife Service (FWS) to spend up to \$15 million a year on preserving habitat, "insofar as it is practicable and consistent with their primary purpose." From this would come an essential element in the creation of Fish & Wildlife's "Redbook" on creatures endangered in America.

The whooping crane had long been protected by law from hunters, but the question to be answered was whether habitat protection could save a creature abundant in the Pleistocene era millions of years ago, but already in decline by the time of European discovery. As recently as 1950, natural storms had decimated one flock in Louisiana to a sole surviving bird named Mac, which was captured and relocated to the only other known wintering grounds of the birds in Texas. "Mac" was later found dead, apparently killed by other cranes.

Similar natural events including summer freezes and storms near the Arctic accounted for most of the continued losses in the precarious survival of Allen's discovery. Only the introduction of captive breeding and virtual handraising of the cranes, including migration training with the use of ultralight aircraft, seemed likely to save them from extinction. Nearly 40 years later there is hope that some 200 whooping cranes known to exist may, with man's help, soon find their way from endangered status to threatened existence.

Nevertheless, the public inspiration found in an attempt to save the cranes would carry on into a vision that made much more seem possible. The buffalo might never return in such wild numbers but the televised work of Jacques Cousteau and others in the 1960s brought the sea and sea mammals into public consciousness as never before, and there, it seemed, was an almost religious awakening.

Eschrichtius Robustus

"For the first few days that we were here and at Santa Barbara, we watched them with great interest—calling out 'There she blows!' every time we saw the spout of one breaking the surface of the water, but soon they became so common we took little notice of them."—Richard Henry Dana, "Two Years Before the Mast"

The 19th century literature of Dana and Herman Melville and others compounded a sense of the sea in overpowering metaphors and ultimate high adventure, but it was the underwater motion picture camera that provided the opportunity at last to look eye to eye at a living creature which seemed so obviously to understand.

The 1966 Protection Act had established a broad interest in saving certain species of native fish and wildlife but the terms of its authority were limited, and public attention was being drawn at the same time with even greater confidence to what could be done. In 1969, Congress replaced the old Act with new terms that extended protection to invertebrates and increased prohibitions on illegal trade, prohibiting imports to the United States of products made from endangered species. Reaching out to sea and beyond, the 1969 Act set the stage for a series of international conventions and the campaign to save the whales.

There was already great reason for optimism in such actions. Rachel Carson's "Silent Spring" in 1963 had vividly brought to awareness the dangers from uncontrolled use of pesticides, especially DDT. Empowered with new authority under the 1969 Act and with better knowledge of chemical effects, FWS began a campaign that in remarkably rapid time would seem to have "saved" not only the study species of the peregrine falcon but the veritable national symbol of the bald eagle. Even more than with the cranes, the efforts with raptors became success stories possible to be clearly seen in their achievements and ultimately inspiring in their aims. It was no wonder that so many saw the possibilities for rescuing the dominant creatures of the sea, beginning with the gray whale, *Eschrichtius robustus*.

It was a turbulent period leading to the adventures of disillusioned Vietnam veterans who formed Greenpeace and sped off in daring charges of small boats against monstrous whaling fleets that resembled the same courage Melville himself had expressed. It was also a time when long-ignored others assumed to be an academically quiet and gentle minority began to sense new power in the

opportunity before them. The Nature Conservancy (TNC) was formed in 1951 among a group of scientists and researchers primarily interested in acquiring small regions for further study. But in 1970, the nonprofit organization used funds donated by newly awakened business and industrial foundations to purchase three islands off the coast of Virginia. It was the first major purchase by a once-small organization of scientists looking to study a pond. It has evolved into a secretive, major land-holding and power-mongering cartel. Today TNC controls more than 12 million acres in the United States alone and 90 million acres worldwide.

With less financial success perhaps but with much the same enthusiasm, older organizations such as the National Audubon Society, the Wilderness Society and the Sierra Club expanded their public appeals in the easy times when suddenly everybody was an environmentalist.

Now, although international battles remain in the Asian Pacific, gray whales especially have come back in numbers that may exceed all historical records off the U.S. West Coast. The peregrine falcon and the bald eagle are no longer endangered and probably more cherished among humankind in general than ever. The eyes of the great marine mammals do, truly, seem to understand.

But the inspiration of those successes after passage of the 1969 Act served as much to define what might be beyond legal reach as they suggested what might come in social—and political—rewards for a greater effort. New pressures were being imposed on politicians by groups who found new wealth in foundation grants from the ostensibly honest guilt of those who had exploited the earth to earn it. Protection of species, they argued with cash in hand, must go further.

Percina Tanasi

It was the United States Navy that complained most about listing whales, particularly the sperm whale, as endangered, because oil from the species was still used in submarines. The test of will, however, between the Navy and the Department of the Interior ultimately came out on the side of the whale and indirectly in the politically potent creation of what many scholars say is the nation's most powerful law—The Endangered Species Act of 1973.

Passed with nearly unanimous bipartisan support and signed by its personal champion, President Richard Nixon, the new Act closed old loopholes and spread into new areas. It created a category of threatened as well as endangered species and allowed an unlimited listing of animals, plants and invertebrates that might only be in danger in just part of their range. It was not only illegal to kill or harm an endangered species; now even an unconscious act to disrupt a habitat could be regarded as a crime. The strengthening environmentalist movement could see the enormous implications of the Act, even if many in Congress who were eager to be aboard the bandwagon of ecology could not.

The spotted owl was merely a surrogate. No other species had ever been used in quite the same way. Hundreds of lumber mills were shut down. Thousands of workers were displaced. "Bambi" had gone bad, real bad.

The first widely publicized confrontation came over completion of a public works dream beginning in the 1930s and about to culminate with closing the gates on the \$100 million Tellico Dam on the Little Tennessee River. The 1973 law had sent scientists scrambling on a treasure

hunt for rare species as if they had just been burst loose from a gigantic federal piñata. Species and subspecies everywhere were claimed from the edge of extinction, among them, the humble little snail darter fish, *Percina tanasi*, thought only to exist on the Little Tennessee.

Preposterous as it may have seemed to many, the little snail darter became the crowning proof of the power behind the Endangered Species Act when in 1978 the U.S. Supreme Court ruled that the "plain intent" of the law was to save all species possible, "whatever the cost." That included the \$78 million already expended on Tellico Dam.

Now more uncomfortably aware of what had been set loose, Congress attempted in 1978 to establish a "god squad" committee that could exempt some species from extinction, but the political pressures were too great, and at their very first meeting the committee declined to exempt even the snail darter. Science, it seemed, had scored an important victory over mere social progress.

Yet even a defiant act by Tennessee lawmakers to complete the dam anyway was not what ultimately settled the issue. That came when other scientists acting on their own found that the snail darter, to everyone's surprise, was not at all limited to the

Little Tennessee. By 1984, with the dam full and operating, FWS down-listed the snail darter from endangered to threatened in its existence on many small streams of the Tennessee Valley.

Even so, the scientific treasure nuggets of unheard of plants, animals and insects were still scattered for the finding all over the nation: a form of mint in San Diego stopped a Veterans Administration project; a subspecies of squirrel blocked the Catholic Church from a huge telescope project in Arizona; a fly stopped a hospital in California; a mouse blocked a subdivision. All real stories, and despite the outcome at Tellico, most with costly consequences to the planners and developers. The mightiest law of the land exerted its power everywhere and brought a stillness to the general inspiration remembered from the eyes of a whale.

Strix Occidentalis Caurina
The Endangered Species Act of 1973 was a beast of its own being, evolving beyond itself into proportions few were willing to predict. All that was really known was that once it took hold it was almost impossible to stop. Yet it was established in the American psyche. Even with the extremes and the errors that could be seen from the case of the snail darter, the sense of a new, more enlightened, morality toward other species prevailed. The planet, and every precious bit of life upon it, was clearly worth saving. To argue against that was to risk political suicide.

Under successive Republican administrations, the FWS "Redbook" of species in danger added still more careful lines, while attempts were made to protect some private property rights by allowing a "take" of some localized species, provided their habitat was assured elsewhere. It was a feeble adjustment that would soon seem meaningless.

In 1989, Sierra Club Legal Defense analyst Andy Stahl stood in the pit of a university lecture hall in Oregon and directed himself to what he assumed to be a loyal crowd of activists, one of whom was videotaping the Sierra Club leader's remarks.

"I've often thought thank God the spotted owl evolved," Stahl said, nearly giggling at his own revelation, "because if it hadn't, we would have had to genetically engineer it."

The spotted owl, *Strix occidentalis caurina*, was "perfect" he said. He compared the owl to a slide of Disney's "Bambi," knowing its innocent features would pull at shallow American emotions, and he delighted most in what he said was scientific discovery that the owl could only survive in old-growth forests.

It was not the owl the Sierra Club wanted to save. It was the old-growth and even managed-growth forest of the Pacific Northwest that was the prize environmentalists intended to protect. The spotted owl, Stahl readily admitted, was merely the surrogate for their cause. No other species had ever been used in quite the same way. The owl wasn't bound by a single nest or limited to a specific stream. It couldn't be assured of survival by some other stand of trees. Its range could cover hundreds of miles, crossing over more than 25 million acres of Northwest forests. Anywhere it could thrive its habitat had to be protected.

Pressured by environmentalists holding increasingly important jobs in the Department of the Interior, FWS listed the spotted owl as threatened in 1990. Within three years, hundreds of lumber mills were shut down and thousands of workers were displaced from their jobs in the timber industry and related employment. The response by the excited environmentalist movement was to deluge federal authorities with petitions for listing still more species and demanding even more expanded habitat protection. "Bambi" had gone bad, real bad.

Newly emerging organizations like Arizona's Center for Biological Diversity made it their specialty to find more overlooked species and petition for their listing. Beyond that, the openings provided in the evolution of the Act since 1966 provided for habitat protection in some areas not even related to species identified upstream or miles away. The criteria recognized by FWS was to protect not species in immediate danger, but those that might someday be put at risk. Working in questionable legal relationship with such groups as The Nature Conservancy and the Environmental Defense Fund, the federal agency began pressuring private landholders to sell wetlands and water rights often only remotely connected to habitat protection of specific species. The Act even provided for the reintroduction of species, particularly predators such as wolves and grizzly bears, into suitable habitats from which they had once been eliminated.

Bruce Babbitt, long contemptuous of any legislative challenge to what he regarded as his baronial domain, almost mockingly said, "I am certain that the members of Congress who passed the Endangered Species Act didn't understand the American West." By 1995, Babbitt's Interior Department was so over-

whelmed with species proposed for listing and lawsuits filed by environmental groups that the Clinton administration tried to offset the pressure by exempting some small property holders. But in that same year, the U.S. Supreme Court in the "Sweet Home [Oregon]" decision ruled that any alteration of a listed species habitat could bring a prison sentence. Finally, that year, Congress imposed a moratorium on further listings.

Yet Babbitt would not accept any limita-



SPOTTED OWL © GREG VAUGHN, TOM STACK & ASSOCIATES

tions on his most powerful tool and the most potent public relations device of his environmental backers. In 1998 he gloated before a news conference, claiming that his people proved conclusively that the Endangered Species Act, "works!... In the near future many species will be flying, splashing and leaping off the list," Babbitt proclaimed. "They made it. They are graduating." He provided a list of two dozen species seemingly on the verge of imminent recovery. Five species on the list were already extinct. Eight were listed by mistake in the first place, and four others were discovered not to have been distinct species at all.

Babbitt had been sucked in by a blunder in his own public affairs office, but it didn't matter. The almighty Interior Secretary stood by his own fantasies like Mussolini claiming Ethiopia. It was politics, not science, and if there was any doubt about what worked, Babbitt also cited the probably accurate estimate that 86 percent of the American people supported policies on the protection of endangered species.

Most of them probably still believe the

spotted owl is endangered, even though a preponderance of newer research and evidence suggests the Sierra Club "science" was cooked to make it seem the owl could only survive in old-growth forests. Having served its purpose as a "surrogate" to halt logging, the remarkably prolific owl is now seldom mentioned even by the Sierra Club itself.

By the time Babbitt made his 1998 "graduation" speech, more than 1,100 species were on the list. Although many of them, including the spotted owl, have since been found to exist in far greater numbers than previously thought, the Act itself makes it virtually impossible to easily "delist" any but those acknowledged as a mistake in the first place. Only 11 species have been removed from the list as recovered. These include the gray whale, the peregrine falcon and the American alligator, as well as similar species whose ultimate survival is more attributable to hunting restrictions and changes in the use of pesticides. Dozens if not hundreds of other species are under consideration for delisting or downlisting, but the cumbersome process imposed on the Act by lawsuits and other actions now requires years of verification that the species is no longer endangered or threatened. More than four thousand "species of concern" still await decision on petitions to add them to the list.

In 1971, then Assistant Secretary of the U.S. Fish & Wildlife Service, Nathaniel P. Reed reached deep for eloquence in saying, "America has matured to the point that we are no longer willing to sacrifice the end product of eons of evolution—a species or subspecies of wildlife—on the altar of the god called Progress without putting up one darned good fight." Yet the evolution of the Endangered Species Act is marked far less by sure science of survival than it is by the cynical, if more certain, craving for political opportunism. No imposed limitations on property or regulated restrictions of public use under the Act has ever been credited with saving a single species in the United States. It remains a powerful and popular law of the land based in its limited success on the increasingly common good sense that nature should no longer be taken for granted.

On that fall afternoon in Colorado we were just hunting, as boys then often did. With all I have learned since, I still don't think it would have changed my thoughts immediately after I fired that wild shot. "God," I whispered to myself, "I'm glad I missed." ■



OH BROTHER WOLF

IT IS UNLIKELY THAT A BOOK TELLING THE TRUTH ABOUT THE ALASKA WOLF WOULD FIND A PLACE ON THE CONSERVATION SHELF BESIDE THE LION CUBS, BUNNY HUGGING GREENPEACERS AND THE ORPHANS. EVEN IF WE DESIRED THIS IT WOULD BE NO EASY TASK, FOR THERE IS NOTHING ROMANTIC ABOUT THE WOLF, NOTHING CUDDLY. THE POTENT SYMBOLISM OF EVIL AND TERROR THAT THEY HOLD FOR PEOPLE LIVING IN GAME COUNTRY MAKES THEM OUTSIDERS.

WORDS & PHOTOS
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When I started guiding big game hunters during the late '60s, I built a remote lodge on the west side of the Alaska Range. Located in the heart of Alaska's finest moose country, there were many trophy bulls and, in combination with moose, we also hunted caribou, black bear and grizzly. There were plenty of wolf signs in the area but we never saw one during our first two years. From

the air I spotted a few during winter months but those sightings were mostly near wintering grounds of caribou herds.

When, 20 years later, the overpopulated caribou herd moved seeking better feeding grounds, they left behind a large number of hungry wolves. Wolf sightings by guides and hunters became common.

In 1977, I counted 42 wolves traveling single file on a frozen river near my lodge.





LEFT: David Baker and Joe Mass watch for moose in the Alaska Range. **ABOVE:** A skilled warrior who never lost a fight, this largest bull moose ever photographed has an antler spread of more than 80 inches. **RIGHT:** Arno Krums, winter caretaker for Stony River Lodge, holds a pair of wolf skulls whose size and ferocity are only matched by those of a black bear.



Taking advantage of a recent snowfall I backtracked the pack to find a trail of waste and destruction. Near a partly devoured caribou I discovered an adult female wolf killed by her traveling companions. The other victims of the large pack were two



ABOVE: In midsummer, this bull moose has rubbed much of the velvet from his antlers. They will dry and change color before his early autumn move to lower elevations where courting will begin. **LEFT:** Stony River Lodge guide Jim Harrower sits beside Arno Krums who shot 13 wolves near the deck.

prime bull moose. Nature has no favorites.

The moose and caribou rut in the Alaska Range ends by early November. The old bulls, skinny and weakened by their mating activities, are vulnerable and become easy prey. Another critical time for survival is the weeks leading up to the rut. While spending their time above timberline, the fat, overweight bulls are easily outrun by a pack of wolves. Most kills are made during the cover of dark but when wolves are hungry they kill anytime.

Once while hunting with a client, lunch was interrupted by four wolves trying to kill a large bull caribou. The following hours reminded me of a lion-buffalo kill I had witnessed in Africa. Sentimental preservationists would probably not find this account of my sighting much to their taste. When light was fading and we left, the bull was still standing in the open tundra, his blood-soaked mane and shredded hind legs making him a strong underdog.

For many years, wolf control was low on the list of priorities with the State of Alaska Dept. of Fish & Game. When the

use of airplanes for wolf hunting was still legal, a small, highly skilled group of Super Cub pilots made up the "Wolf-Force," which became an effective tool in controlling the exploding wolf population. Those hunter/pilots spent years in game country and took their time to study the wolf. They learned to ignore the myths and pay attention to the reality—a common sense approach to the wolf problem. Besides the inability of government agencies to afford the kind of wolf control program that Alaska sportsmen like to see, government would have to answer to a string of animal welfare groups. To them, the wolf is the best fund-raising animal aside from whales. Conservationists cherish a fantasy of communion with a mysterious nature and as such they fear objectivity.

When I talk to wolf hunters and people living in rural Alaska, I never feel that they are on a crusade to eliminate the wolf. On the contrary, you might catch hint of a rather wistful daydream in which man in his wisdom will find a way to return the number of prey animals but still grant the wolf asylum. ■