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A Selective Bibliography on the Endangered Species Act

Kristin A. Cheney

Since its passage in 1973, the Endangered Species Act (ESA) has been the subject of much discussion and numerous publications. This bibliography is not an exhaustive treatment of the topic, but rather concentrates on monographs published from 1980 forward and includes only post-1988 journal articles. To aid the reader in locating relevant references, the journal articles are organized into the subcategories of (1) law and regulations, (2) litigation, and (3) international and extraterritorial.

Books

Bean, Michael. *The Evolution of National Wildlife Law*. rev. ed. New York: Praeger, 1983.

Outlines the development of wildlife conservation law, and provides authoritative analysis of conservation laws and court decisions construing these laws. Chapter 12, Conservation of Endangered Species, provides background on ESA and CITES, explains the listing process and subsequent exceptions, and includes an in-depth discussion of section 7.

Bean, Michael; Fitzgerald, Sarah; and O'Connell, Michael. *Reconciling Conflict under the Endangered Species Act: The Habitat Conservation Planning Experience*. Washington, D.C.: World Wildlife Fund, 1991.

Outlines and explains the U.S. Fish & Wildlife Service's Habitat Conservation Plan program. Appendix provides detailed case studies and case briefs.

Favre, David. *Wildlife Law*. Detroit: Lupus Publications, Ltd., 1991.

Although designed as a text, this 1991 publication cogently explores wildlife law topics ranging from the legal position of Native

Americans on wildlife issues, to the legal rights of animals. Chapter 7 specifically concentrates on the ESA, and provides references and analysis of landmark ESA decisions. Additionally, Appendix A—Statutory Supplement furnishes the full text of many relevant environmental acts.

Fitzgerald, John and Merchant, Ginger. *Saving Endangered Species: Amending and Implementing the Endangered Species Act*. Washington, D.C.: Defenders of Wildlife, 1986.

Gross, W. Jack. *The Protection and Management of Our Natural Resources, Wildlife and Habitat*. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1992.

Chapter 5 is devoted to extensive discussion on endangered species. Provides not only background information, but additionally contains up-to-date information on listing procedures, recovery plans, prohibited acts, exceptions, and penalties.

Harrington, Winston. *The Endangered Species Act and the Search for Balance*. Washington, D.C.: Resources for the Future, 1982. Originally published in the January 1981 *Natural Resources Journal*, this twenty-two page RFF reprint presents a concise overview of the 1973 ESA and its 1978 amendments, summarizes the Act's objectives, and offers analysis on the effectiveness of endangered species policy.

Kohm, Kathryn, ed. *Balancing on the Brink of Extinction: The Endangered Species Act and Lessons for the Future*. Washington, D.C.: Island Press, 1991.

This compilation of twenty-one essays by conservationists and environmental law specialists reviews the legislative history of the Endangered Species Act and further provides scholarly analysis on specific ESA issues. Essays are divided into four categories: (1) Reflections on the Act; (2) Components of the Federal Endangered Species Program; (3) Implementation Challenges; and (4) Conserving Biodiversity.

Littell, Richard. *Endangered and Other Protected Species*. Washington, D.C.: Bureau of National Affairs, 1992.

Contains a straightforward analysis of nineteen federal environmental statutes, including the Endangered Species Act, the Lacey Act, the Marine Mammal Protection Act, and the Migratory Bird Act, and reviews

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the related regulations, and court and agency decisions.

Lund, Thomas. *American Wildlife Law*. Berkeley: University of California Press, 1980. Describes the origin and development of American governmental policy toward wildlife. Separate chapters provide an overview of the often conflicting state and federal wildlife policies, and discusses the trend toward federal preemption. Although over ten years old, extensive footnotes furnish historical references and beginning research points.

Lyster, Simon. *International Wildlife Law: An Analysis of International Treaties Concerned with the Conservation of Wildlife*. Cambridge, England: Grotius Publications, 1985.

Provides both the text and a detailed examination of twenty-seven wildlife treaties (e.g., regional, international, protection of specific animals).

Rohlf, Daniel. *The Endangered Species Act: A Guide to Its Protections and Implementations*, Stanford, Cal.: Stanford Environmental Law Society, 1989.

Early chapters present a historical overview of the ESA, with later chapters addressing the Act's interpretation, application, and enforcement. Although geared toward the attorney, Rohlf's presentation is straightforward and of use to the layperson as well.

Sigler, William. *Wildlife Law Enforcement*. 3d ed. Dubuque, Iowa: William C. Brown Co., 1980.

More of a textbook than a treatise, this publication surveys wildlife law enforcement on both a state and federal level. Directed toward students or laypersons, rather than attorneys.

Watts, Tim. *Public Policy and the Protection of Endangered Species During the Reagan Years: A Bibliography*. Monticello, Ill.: Vance Bibliographies, 1989.

Part of the *Vance Bibliography Series*, this bibliography contains separate listings of monographs and articles that consider public policy toward the preservation of species during the Reagan era (1980-1989), with emphasis on ESA- and CITES-related publications.

Yaffee, Steven. *Prohibitive Policy: Implementing the Federal Endangered Species Act*, Cambridge, Mass.: MIT Press, 1982.

Part of the *American Politics & Public Policy MIT Press Series*, this publication examines how governmental institutions respond to and interpret prohibitive environmental policy. Five in-depth case studies illustrate implementation of the ESA's regulation by prohibition.

Periodical Articles

I. Law and Regulations

1993

Houck, Oliver. "The Endangered Species Act and Its Implementation by the U.S. Departments of Interior and Commerce." *University of Colorado Law Review* 64:2 pp. 277-358.

Johansen, Judith. "Management of Our Nation's Resources by the Judiciary: Endangered Species Act Phase IV." *Natural Resources & Environment* 7:3 p. 36.

1992

Abate, Tom. "A Threatened Statute." *Environmental Forum* 9:2 pp. 16-20.

Berschauer, David. "Is the 'Endangered Species Act' Endangered?" *Southwestern University Law Review* 21:3 pp. 991-1017.

Burling, James. "Property Rights, Endangered Species, Wetlands, and Other Critters—Is It Against Nature to Pay for a Taking?" *Land and Water Law Review* 27:2 pp. 309-62.

Cole, Christopher. "Species Conservation in the United States: The Ultimate Failure of the Endangered Species Act and Other Land Use Laws." *Boston University Law Review* 72:2 pp. 343-79.

Estes, Melissa. "The Effect of the Federal Endangered Species Act on State Water Rights." *Environmental Law* 22:3 pp. 1027-66.

Goble, Dale. "Of Wolves and Welfare Ranching." *Harvard Environmental Law Review* 16:1 pp. 101-27.

Grierson, Kevin. "The Concept of Species and the Endangered Species Act." *Virginia Environmental Law Journal* 11:3 pp. 463-93.

Kirwin, Christopher. "Wolves and Recovery Plans: The Difficult Road to Wolf Preser-

- vation in the Greater Yellowstone Ecosystem." *UMKC Law Review* 60:3 pp. 517-40.
- Ray, J. Kevin. "The Endangered Species Act and Mineral Development in National Forests." *Colorado Lawyer* 21:10 pp. 2223-26.
- Reed, Scott. "Fish Gotta Swim: Establishing Legal Rights to Instream Flows through the Endangered Species Act and the Public Trust Doctrine." *Idaho Law Review* 28:3 pp. 645-66.
- Rowland, Melanie. "Bargaining for Life: Protecting Biodiversity through Mediated Agreements." *Environmental Law* 22:2 pp. 503-27.
- Ruhl, J.B. "Phase Three of the ESA: Using Endangered Species Protection as a Natural Resource Management Tool." *Natural Resources & Environment* 6:3 pp. 38-40.
- Sinclair, Allyson. "The Future of Endangered Species Inhabiting FDIC-owned Properties Acquired from Failed Savings and Loans." *Temple Environmental Law and Technology Journal* 11:1 pp. 45-60.
- Smith, J. Owens. "Some Current Environmental Issues in Forestry." *North Dakota Law Review* 68:2 pp. 345-64.
- Todd, David. "Wolves—Predator Control and Endangered Species Protection: Thoughts on Politics and Law." *South Texas Law Review* 33:2 pp. 459-92.
- 1991
- Arnold, Craig. "Conserving Habitats and Building Habitats: The Emerging Impact of the Endangered Species Act on Land Use Development." *Stanford Environmental Law Journal* 10:1-43.
- Barry, Donald. "Amending the Endangered Species Act: The Ransom of Red Chief, and Other Related Topics." *Environmental Law* 21:3 pp. 587-604.
- Blumm, Michael. "Ancient Forests, Spotted Owls, and Modern Public Land Law." *Boston College Environmental Affairs Law Review* 18:4 pp. 605-22.
- Blumm, Michael and Simrin, Andy. "The Unraveling of the Parity Promise: Hydropower, Salmon, and Endangered Species in the Columbia Basin." *Environmental Law* 21:3 pp. 657-744.
- Bonnett, Mark and Zimmerman, Kurt. "Politics and Preservation: The Endangered Species Act and the Northern Spotted Owl." *Ecology Law Quarterly* 18:18 pp. 105-71.
- Bray, William and Haywood, R. Alan. "Regional Solutions to the Endangered Species Act." *Probate and Property* 5:6 pp. 36-39.
- Carter, Christopher. "A Dual Track for Incidental Takings: Reexamining Sections 7 and 10 of the Endangered Species Act." *Boston College Environmental Affairs Law Review* 19:1 pp. 135-71.
- Cheever, Federico. "An Introduction to the Prohibition against Takings in Section 9 of the Endangered Species Act of 1973: Learning to Live with a Powerful Species Preservation Law." *University of Colorado Law Review* 62:1 pp. 109-99.
- Des Rosiers, Jared. "The Exemption Process under the Endangered Species Act: How the 'God Squad' Works and Why." *Notre Dame Law Review* 66:3 pp. 825-62.
- Doremus, Holly. "Patching the Ark: Improving Legal Protection of Biological Diversity." *Ecology Law Quarterly* 18:2 pp. 265-333.
- Good, James and Mitchell, Patrick. "Wildlife and Mining Operations: Mutually Compatible or Irreconcilable Differences?" *Rocky Mountain Mineral Law Institute* 37:7-51.
- Harrison, Geoffrey. "The Endangered Species Act and Ursine Usurpations: A Grizzly Tale of Two Takings." *University of Chicago Law Review* 58:3 pp. 1101-24.
- Joy, David. "A Tennessee Snail Darter at Grafenwoehr? The Application of the Endangered Species Act to Military Actions Abroad." *Army Lawyer* 23-30 (Dec. 1991).
- Lee, Kai. "Rebuilding Confidence: Salmon, Science, and Law in the Columbia Basin." *Environmental Law* 21:3 pp. 745-805.
- MacLeod, John; Means, Thomas; Lundquist, Thomas. "The Endangered Species Act: A Comprehensive Evaluation for the Coal Industry." *West Virginia Law Review* 93:3 pp. 673-712.

Continued on page 77