

The Endangered Species Act at 50

A Record of Falsified Recoveries Underscores a Lack of Scientific Integrity in the Federal Program

EXECUTIVE SUMMARY



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Executive Summary

On December 28th, 2023, it will be 50 years since the Endangered Species Act (ESA) first became law. Recovering endangered species is the ultimate measure of success under the ESA. The U.S. Fish and Wildlife Service (USFWS) recently touted its work towards this end, stating: “... more than 100 species of plants and animals have been delisted based on recovery or reclassified from endangered to threatened based on improved conservation status.”

Unfortunately, at the half century mark, with the listing of 1,667 threatened or endangered species, there are only 62 officially ‘recovered’ species.* Of these, 36—nearing 60%—are not real conservation ‘success stories.’ These ‘recoveries’ are hollow, as they are inaccurate proclamations attributable to an erroneous original determination that the species was endangered or threatened. The ESA’s poor showing is compounded by the fact that for some species that have recovered, the recovery is not primarily or even substantially attributable to the ESA. Of the species currently proposed for delisting on the basis of recovery, at least 5 of 12 appear more likely to owe their improvement to original data error. About 20 of 40 of the downlisted species (lowered from endangered to threatened status) pointed to by USFWS as recovering, appear to primarily owe their improved status to data error as well. To support these conclusions, this report relies, with few exceptions, on the federal government’s own data, and is the most in-depth, up-do-date, and complete assessment of delisted endangered and threatened species available.

* Endangered and Threatened U.S. Listings as of 11/27/23 per FWS ECOS “Boxscore.”

This review shows:

- More than half of the 62 ‘recoveries’ are not legitimate and primarily owe their delisting to the use of erroneous data or analysis to list these species.
- Disguising species added to the list in error as ‘recovered’ has been a long-standing practice.
- The same deception has occurred with many species that are proposed for delisting or that have been downlisted and claimed as evidence of the ESA’s effectiveness.
- USFWS ceased reporting other measurements (in its biannual Report to Congress) that could have provided an additional yardstick for measuring progress and, instead, substituted bureaucratic fluff.
- The listing standards, the process, or both, have led to more than twice as many wrongly listed species as recovered species.
- Continuously mislabeling species as “recovered” reveals a serious scientific integrity problem in the implementation of the ESA.

These errors are not without consequence. Each mistake consumes money and time through required bureaucratic actions. Many of these mistakes remained on the List for decades and resulted in regulatory burdens and economic costs. Not only does misreporting these species as “recovered,” hide the ESA’s true conservation record, but it also obscures the waste of conservation resources, and that economic impacts and regulatory burdens on private property owners were imposed on the basis of bad data. Officially proclaiming these errors as recoveries resulted in even more waste than would have occurred if the species had been properly delisted on the grounds of original data error. The deceptive record hinders Congressional oversight and misrepresents the program to the public.

While we are often reminded that ‘recovery takes time,’ a recovery record that is inflated by more than 100% after fifty years should trigger profound concern and a demand for an honest discussion about the conservation effectiveness of the law. The dishonest claims of recovery should not only set off alarm bells about the ESA’s effectiveness at the half century mark, but also about the lack of scientific integrity in the implementation of one of the Nation’s most powerful environmental laws.

Congressional oversight committees should take a hard look at the data and science used in listings and delistings. This dismal recovery record further reinforces the need to modernize the Act so that it may be focused on effectively conserving legitimately threatened and endangered species.

Some of the ‘Recovering’ Species

The misleading practice of mislabeling species as successful “recoveries” has been going on for decades. As far back as 1988, the Government Accounting Office reported this regarding three birds found on the islands of Palau. GAO reported, “*although officially designated as recovered, the [Palau owl, dove and flycatcher] owe their ‘recovery’ more to the discovery of additional birds than to successful recovery efforts.*”

The misleading process has continued to this day, to highlight just a few examples:

- The **Hawaiian hawk** was added to the list given a perceived low population, threats from invasive species, habitat loss, and environmental contaminants. Almost five decades later, when delisting the bird as “recovered” in 2020, USFWS reported that the new data indicated that the bird “...**was, and continues to be, stable**” (emphasis added). USFWS also found Hawaiian hawks use both native and nonnative habitats for breeding and hunting; invasive species were a substantial part of the bird’s diet, and that there was “*no evidence of threat from environmental contaminants.*”
- When listing the **running buffalo clover** in 1987, FWS reported that it was “*one of the rarest members of the North American flora,*” with just four known individual plants in one county, in one state. By the time it was delisted as a “recovered species” in 2021, 175 populations, in more than 80 counties and in six states—with one population numbering more than 60,000—had been found.
- **Bradshaw’s lomantium**, a plant, was added to the *List* when it was believed there were just 25,000 to 35,000 individuals in 11 known populations. Later discoveries revealed 71 sites with a gigantic one on a golf course—approximately 10.8 million plants. FWS proclaimed the plant a recovery in 2021, and reported that “*even without formal protections, the regular mowing that occurs at [the golf course] on a consistent basis year after year has provided for the most vast and robust population of the species known.*”



Hawaiian Hawk, courtesy of USFWS
<https://www.fws.gov/story/species-spotlight-hawaiian-hawk-io>

- Around the time it was listed as endangered, the **Monito gecko** was assumed to be extremely rare—one survey revealed only 18 of the one and a half inch lizards. The presumed threat was predation by invasive rats but FWS could later find no evidence rats ate the gecko. It also discovered the lizard was nocturnal. While the count of 18 had been done during the day, nighttime surveys yielded an estimated population of 7,661. The gecko was declared a “recovery” in 2019.
- When added to the *List*, FWS estimated there were around 500 **lesser long-nosed bats**. When declaring the bat a “recovery” in 2018, FWS reported an estimated population of 200,000—400 times more, and reported that while the big number may in large part reflect better data, it did make it easier to determine the bat was no longer ‘endangered.’
- The year before delisting the “**San Clemente sage sparrow**” in 2023, FWS said “*we continue to consider the Bell’s sparrow... on [San Clemente Island] a subspecies.*” Research indicates it is not. Even the Integrated Taxonomic Information System’s “*authoritative taxonomic information*”—which FWS partners in maintaining—considers the subspecies unique to San Clemente Island invalid. It is the same as other sparrows that are plentiful.

Just the above species account for almost 15% of the ESA ‘success stories’ over the last half century. Similarly, several species proposed for delisting as having “recovered” really did not.

- **The Puerto Rican boa** was proposed for delisting as recovered in July of 2022. That same month a FWS assessment reported that the boa “*is probably less abundant now than it was in Pre-Columbian times...*” and that a “current initial population size of the [Puerto Rican] boa could range from 37,903 to 189,515 boas” (emphasis added).

Some of the downlisted species USFWS has pointed to as evidence of improvement are also substantially attributable to erroneous data.

- **The beach layia**, a plant, was downlisted in March of 2022. A prior FWS analysis reports “based on our current population estimate (likely in excess of 10 million), the 1998 estimate” of 300,000 “*may have been a gross underestimate*” (emphasis added).



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