

RESOLUTION NO. 97-001

of the

ARKANSAS SOIL AND WATER CONSERVATION COMMISSION

A RESOLUTION EXPRESSING CONCERN OVER THE IMPACTS OF THE ENDANGERED SPECIES ACT, ASKING CONGRESS TO CONSIDER CHANGES TO THE ACT WHEN IT IS REAUTHORIZED AND FOR OTHER PURPOSES

WHEREAS, the protection of plant and animal species is important for the continued protection of the environment;

WHEREAS, the current Endangered Species Act ("Act") is over burdensome on property owners, limits citizen participation, and has, in fact, resulted in the destruction of habitat;

WHEREAS, all decisions under the Act need to be made on good scientific information and recovery plan should be the least costly to parties, and

WHEREAS, the Act is up for reauthorization and should be amended to address these concerns.

NOW THEREFORE BE IT RESOLVED by the Arkansas Soil and Water Conservation Commission ("Commission"):

Section 1. The Commission would encourage the Congress to consider the following areas of concern before reauthorizing the Act:

1. Incentives to protect and conserve habitat. To avoid regulation under the Act, some property owners have destroyed habitat to discourage entry of protected species. The Act should be amended to provide incentives to conserve rather than destroy habitat and to provide regulatory certainty to property owners who voluntarily participate in conservation plans.

2. Citizen participation. Individuals and communities, especially those directly impacted, should have a greater role in the decision making process. The Act should provide for earlier and more meaningful opportunities to participate.

3. Equal access to courts. The Supreme Court in *Bennett v. Spear* has allowed access to the courts by all under the citizen suit provision of the Act. Any reauthorization of the Act should make it clear that citizen suit provisions of the Act are

available to all, not just environmental advocacy groups. There should a fair and even-handed opportunity for both sides to bring actions under the law.

4. Cost effective recovery plans. Recovery plans are expensive to implement. Costs should be minimized by requiring implementation of the least costly recovery plan that would achieve the recovery of a species.

5. Good science. The Act requires that actions be based on scientific information. To ensure a fair and sensible decision, the information must be as accurate and thorough as possible. Scientific analysis should meet minimum scientific standards and fair impartial peer review.

6. Shared burdens. The Act encourages states and private citizens through a system of incentives to conserve plants and animals. Contrary to this statement, however, implementation of the Act often has been heavy-handed and inflexible. The burdens have been disproportionately placed on private land owners, small rural communities and resource based industries.

7. Primacy of state water law. The water law of the various states is a complex matrix that establishes the right to water. The Act should be clarified to ensure that the Act is in harmony with, and recognizes the primacy of state water law.

Section 2. The Executive Director is requested to transmit a copy of this resolution to the Arkansas Congressional Delegation.

RESOLUTION ADOPTED this 20th day of August, 1997.

ARKANSAS SOIL & WATER
CONSERVATION COMMISSION

by:



Mike Carter, Chairman

ATTEST:

by:



J. Randy Young, P.E.
Executive Director & Secretary