



# Who Knows What's Endangered?

*The best science that is reliable, replicable and verifiable must be the basis for any decision.*

*By Bill Dunn, Cindy Coping & Stefanie Smallhouse*

**A** couple of years ago, radicals at the Center for Biological Diversity produced a press release detailing how the Endangered Species Act (ESA) can be improved upon, even though in their opinion it has been a rousing success.

Has it been a success?

Not according to a report recently released by the Arizona Natural Resource Conservation Districts State Association (AZNRCD). This report discloses that the ESA has a dismal one percent “success” rate after four decades of implementation, making it a failure by anyone’s standards.

The ESA has not been amended for 25 years, and has not been reauthorized by Congress since the 1990s. From the standpoint of food and fiber producers who feel the economic impact of the ESA like a sledgehammer destroying lives and livelihoods, it desperately needs updating. That’s why a committee consisting of biologists, range ecologists, environmental lawyers, and ranchers assessed the act.

The group met every couple of months and analyzed every part of the ESA to figure out if it furthered—or not—its original intent, which is “to protect species from extinction.” In the end, the committee created two documents, one long and one short, that explains where the ESA can and should be improved upon.

At least 60 percent of listed-species habitat is found on private lands. In the proposed updated version of the Endangered Species Act, private landowners have a reason to save those species that are truly in need of help. The committee suggests programs that will provide true incentives to landowners to foster more of those species and/or create more habitats. Landowners will be more effective and efficient than the federal government has been—because they actually know the resources at the ground level.

Another change is to require the secretary of the Interior to report to Congress annually the costs associated with species recovery, including land purchases. The proposed changes also demand that the decision for whether to list a species as threatened should be based upon “the best available science that is reliable, replicable and verifiable,” not simply “the best available science,” which is how the ESA reads now. Now, the best science includes campfire tales, hearsay, guesses and lies. This is true of the critical habitat decisions for the jaguar and desert tortoise (see sidebars).

There are many more improvements to address transparency, ambiguous language, unrealistic timelines, a greater focus on those species most in peril due to factors within our control, and keeping our efforts and funds focused on species dependent upon habitat that is actually in the United States.



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*There's no proof that the jaguar was ever native to Arizona or New Mexico and records do not tell us how the cats arrived. The jaguar is the largest cat in the western hemisphere, and third largest in the world. It has the most powerful bite of all big cats. This jaguar was photographed in Costa Rica.*



All this culminated in two important documents: “America’s Working Lands: Improving the Endangered Species Act to Ensure Successful Species Recovery,” and “A Productive Future.”

The committee’s reports have been reviewed and carry the support of multiple groups in Arizona, as well as members of the Arizona Legislature. Nobody involved in the efforts to improve the ESA is naive enough to think that all of the recommended improvements will be made. However, those most affected by the ESA must keep trying until we have a law that will not strangle our ability to be productive, and will be based upon the best available science that is reliable, replicable and verifiable. ■

## The Charismatic Cat

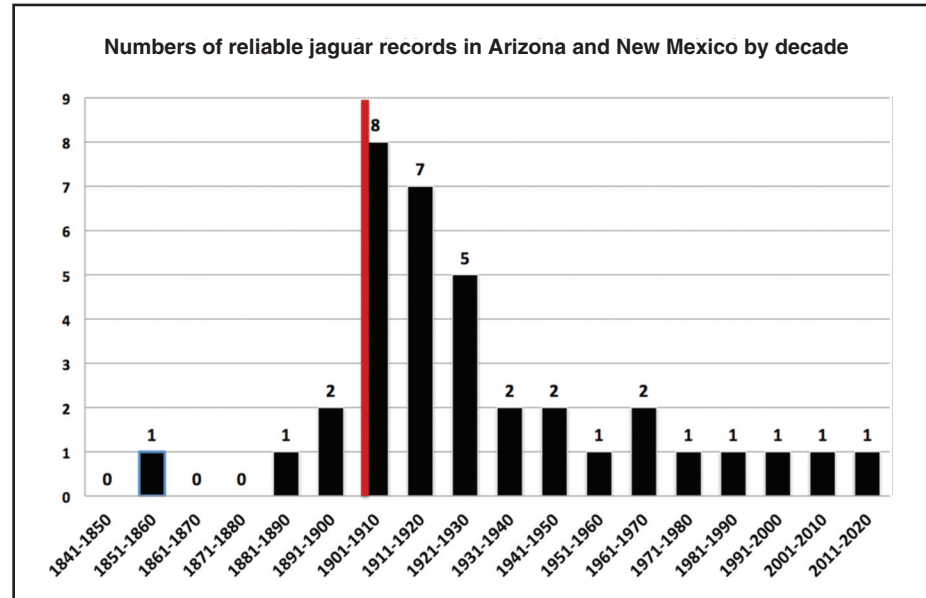
*The myth of the jaguar.*

By Cindy Coping

The myth of the jaguar holds that before 1900, many jaguars roamed and bred all over Arizona and New Mexico. Habitat loss and hunting wiped them out. The process to list the jaguar as endangered and create “critical habitat” started with citizen petitions. The ESA says the U.S. Fish & Wildlife Service (FWS) must make a finding in favor—or not—of a petition within 90 days. Citizens may sue to reverse negative 90-day findings, but can’t sue to reverse positive ones. After FWS found twice that critical habitat is not prudent for jaguars, the same folks who sued for it twice went to court with a flawed model of “potential distribution” of breeding “northern” jaguars. The judge ordered the agency to analyze the habitat elements essential to the cat’s survival.

The myth that jaguars once roamed Arizona and New Mexico in substantial numbers before human activity wiped them out now forms the basis of a proposed 838,232-acre critical-habitat rule. The myth and the rule both rely on untraceable, wrong, duplicate, and other untrustworthy data. No reliable records of female jaguars with cubs in Arizona have been found. The only females in New Mexico were imported for sport hunting. Reliable evidence that wild jaguars ever bred in these two states does not exist.

The facts tell a different story. Before 1900, lone male jaguars wandered into these two states as rarely as today. In 1867, Elliot Coues, author of “Quadrupeds of Arizona,” wrote, “Within the limits of the United



Jaguar sightings in Arizona and New Mexico, 1841 to present. Similar charts in the “scientific” literature omit all data before 1900 (red line), creating the illusion of an extinction crisis.

States, however, [jaguars and ocelots] have as yet only been found in the valley of the Rio Grande of Texas.”

USDA Predator and Rodent Control agency records also prove jaguars were rare. From its start-up in 1915 until 1924, full-time agents in all 15 Arizona counties took no jaguars. Agent Frank Colcord had killed 500 cougars by 1933. He killed only one jaguar before retiring in 1942. His record alone disproves the myth.

Jaguar numbers in the Southwest spiked abruptly in 1900 (see chart). Contrary to the myth, this happened during the worst habitat conditions in known history. This era saw extreme drought, overgrazing, woody takeover of grasslands, and dried-up streams. Cattle drives, railroads, war and other key events also claimed habitat at the start of this surge.

The most important fact that dissolves the myth is this: even the most reliable jaguar records do not tell us how the cats arrived where they were seen. Throughout the 1960s, world-class outfitter and perhaps the world’s most knowledgeable expert on the habits of jaguars, Curtis J. Prock, led hunts for these spotted cats in Mexico and Belize. When asked for his expert opinion about the female and male jaguars killed in 1963 and 1964 on Arizona’s Mogollon Rim, where he had also been guiding bear and cougar hunts at that time, Curtis Prock says, “[those jaguars] had a lot help getting to where they got to.” ■

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## Top Ten Ways to Improve the Endangered Species Act

- Reward private landowners who choose to participate in saving species instead of punishing them through regulatory confiscation for having those species on their lands.
- All agency actions in the listing process must be judicially reviewable.
- There must be more realistic timelines for determinations. (Rule is 90 days)
- The data used must be reliable, replicable and verifiable.
- The ESA must not focus on single species management.
- Replace coercive incentive programs with truly incentive-based compensatory programs.
- The cost of the ESA and its implementation should be borne by the general public and fully accountable on an annual basis.
- Species which are listed and afforded the protections of the ESA should be limited to those species with a majority range within the borders of the United States.
- Ambiguous and subjective language must be eliminated.
- Efforts must be more focused on those species that are most in danger of extinction due to the direct measurable effects of human activity, and only when the modification of those activities will have a significant measurable effect on species survival.



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## Truth About Tortoises

By Bill Dunn

### When Dollars Aren't Really Dollars

Since 1994, the cow outfits that used to range across southeastern California deserts are no more. They have been replaced by vehicles with federal biologists running on the range counting and recounting the Mojave desert tortoise. That's the year the iconic critter was listed as endangered by the U.S. Fish & Wildlife Service (FWS). According to the listing, cattle were one of the culprits in their demise.

According to the recovery plan, all cattle were to be removed from the critical habitat area. The BLM cancelled permits on 245,000 acres without compensation to the owners. According to BLM regulations, each ranch that held a grazing permit had to own compensatory private land to hold the permits. This private property is hardly ever enough to run cattle on by itself and grazing is usually interspersed with federal lands on a ranch around old-time headquarters or permanent waters that had been "proved up" many years prior. After permits were cancelled, the

entire industry in southeastern California and southern Nevada was eliminated along with supporting local businesses.

Not to worry. According to the economic analysis conducted by the FWS as required by the Endangered Species Act, all lost economic activity would be replaced by spending from federal agencies in protecting the tortoise. What logic equates government

spending to the new wealth created by a basic industry?

It had been 14 years since the Mojave desert tortoise listing when FWS officials admitted to the NRCD that in spite of our government spending—at that time around \$150 million—they still didn't know how many tortoises there were or whether the populations were increasing or decreasing.



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*Curtis J. Prock, left, discusses jaguar behavior, a topic on which he is perhaps the world's leading expert, with wildlife biologist and lawyer Dennis Parker. When asked for his opinion about the female and male jaguars killed on Arizona's Mogollon Rim in 1963 and 1964, where he had been guiding bear and cougar hunts at that time, Curtis Prock says, "They had a lot of help getting to where they got to." Dennis Parker says, "There is an entrenched culture in federal land and resource management agencies based on socio-political philosophy rather than scientific inquiry."*



*Desert tortoise (Gopherus agassizii) near California City, Calif. This \$388,888 tortoise had better be worth protection.*

Work on a solar power plant in the middle of the Mojave Desert, the Ivanpah Solar Electric Generating System, lately has been on hold in order to relocate 144 tortoises at a cost of \$52 million. That's \$388,888 per tortoise.

### **When Science Isn't Really Science**

In 2008, Wildearth Guardians and Western Watersheds Project petitioned the FWS to list the Sonoran desert tortoise as endangered under the ESA. It included a compilation and analyses of 17 study plots done over several years on that many population cells of tortoise in Arizona deserts.

After 90 days of study of "the analyses," the agency decided there was new information as defined by the ESA to push the listing decision to the next level—the 12 month finding. The FWS decided that the tortoise needed to be afforded the protections of the ESA but would be put in the threatened category because of other "higher priority" species and revisited every year till the end of time to see if anything has changed and its priority needs to be changed.

Along with this decision, FWS threw out the petitioners' original analysis as invalid since none of their statistical analysis could be replicated. In fact, the population losses that were predicted by the petitioners weren't even there when analyzed by Dr. Russ Tronstadt, distinguished professor, University of Arizona, Department of Ag Economics. If FWS agents had done the same thing at the beginning of the process, they could have moved on to other species that need their attention more. ■

*Bill & Becky Dunn have a grazing permit on the Tonto National Forest running registered and commercial cattle. Cindy Coping ranches west of Marana, Ariz., in the Ironwood Forest National Monument. Stefanie Smallhouse's family has been on the Carlink Ranch running the Redington Cattle Co. at Redington, Ariz., for more than 125 years. The main document can be found at [www.aznrca.org](http://www.aznrca.org). Dunn says, "We hope you will contact your lawmakers, trade associations and local governments to urge them to help update and improve the ESA." Since this story was written, the National Association of Conservation Districts, American Farm Bureau Federation and the National Cattlemen's Beef Association have adopted all major points in the documents.*