

Protecting animal and human habitats

While Congress is seeking to protect property owners from the Endangered Species Act, the Supreme Court is protecting endangered species from private property owners.

The act, first passed in 1973, forbids anyone from taking an endangered or threatened species. It defines "take" as "harass, harm, pursue, wound, kill, trap, capture, or collect." In 1975, the Secretary of the Interior issued a regulation stating that the act also outlaws habitat destruction.

Last year, a federal appeals court overturned that regulation, ruling that the law protects species but not necessarily their habitats. Organizations representing landowners, logging companies, and families dependent on the logging industry brought the case against the government.

On June 29, however, the Supreme Court upheld the 1975 regulation. The justices argued that the "dictionary definition" of harm "encompasses habitat modification that results in actual injury or death." They also cited previous Supreme Court decisions stating that Congress intended the law to halt the extinction of species, "whatever the cost."

The three dissenting judges argued that property owners required to protect species' habitats could face "financial ruin." To preserve the habitats of endangered animals, the act provides federal lands, as well as funds for acquiring private lands, they stated.

In April, Congress passed legislation forbidding the Fish and Wildlife Service from listing additional species as endangered or threatened until Sept. 30, the end of fiscal year 1995. The House is now considering a bill that would extend that moratorium through fiscal 1996. The Senate may follow suit.

Members of both the House and the Senate plan to intro-

duce legislation this month to reauthorize—and revamp—the Endangered Species Act. They intend to make the act kinder to property owners, congressional staff say.

If they can survive in New York City...

The peregrine falcon has staged such a successful comeback from the dark days of DDT that it may soon be taken off the endangered species list. Secretary of the Interior Bruce Babbitt said June 30.

Babbitt made his announcement from a New York City rooftop where a pair of the falcons has a nest. Eleven other pairs have found lodging in the city, feasting on pigeons and perching on skyscrapers. About 1,300 peregrine pairs live throughout the United States.

The Fish and Wildlife Service is seeking public comment on its plans to drop the bird. Unless it turns out that the peregrine population has not fully recovered, the agency will probably delist the bird within a year, a spokeswoman says.

Widespread use of the pesticide DDT after World War II wiped out U.S. peregrine populations in the East and caused an 80 to 90 percent decline in the West. The government has listed the bird as endangered since 1967.

The popular—and now populous—peregrine falcon.

Craig Kopple/FWS



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