



# Boiling Spring Lakes

## Endangered Species Act (A brief overview)

The Endangered Species Act (ESA), enacted in 1973, is the nation's primary tool for conserving imperiled plants and animals. Currently over 1,200 U.S. species and over 550 foreign species are listed as either threatened or endangered.

Endangered species: In imminent risk of going extinct.

Threatened species: In imminent risk of becoming endangered.

"Take" Prohibition: The ESA prohibits the "take" of listed species, defined under Section 9 as actions that harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or kill a species.

A "take" also includes actions that significantly modify habitat in a manner that would lead to the injury or death of a listed species.

The take prohibition covers both federal and non-federal parties, including state and local governments, private companies, private individuals



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## How is Section 9 Enforced?

The Service may seek civil penalties, ranging from a maximum of \$500 per violation for an unknowing taking to a maximum of \$25,000 per violation for a "knowing" taking. The civil penalties are assessed administratively, with an opportunity for a hearing and later judicial review.

The federal government may bring a criminal action in district court against "any person who knowingly violates" ESA taking prohibitions.

The maximum criminal penalties are a \$50,000 fine and one year's imprisonment for each taking of endangered wildlife.

Also, any person (e.g., an environmental group) may bring a citizen suit against any other person (e.g., private landowner) to enjoin an ESA taking. The citizen suit must be preceded by 60 days written notice of intent to sue.



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An example of Take





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## Fiction and Facts of the ESA

**FICTION:** The ESA gives the USFWS the power to take people's land away from them.

**FACT:** Except in one unusual case involving water rights, no federal court has ever found that the ESA has led to an unconstitutional land grab. The Service wants to work with landowners to protect species not take their land.

**FICTION:** The ESA puts plants and animals above people, costing us money and jobs.

**FACT:** The ESA explicitly requires balancing species protection with people's economic needs. Once a species is listed, the ESA requires that people and the economy be considered at every stage - including the designation of critical habitat, the development of regulation and the creation of alternatives.



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## Fiction and Facts of the ESA

**FICTION:** The ESA brings construction and development to a halt.

**FACT:** Of more than 219,000 development projects reviewed under the ESA between 1998 and 2001, less than one percent were found to potentially jeopardize listed species - and most of these were allowed to continue after including reasonable alternatives to minimize environmental harm.

**FICTION:** Protecting endangered species is an expensive luxury we can't afford.

**FACT:** Extinction is something we can't afford. Biodiversity provides us with numerous benefits - from supplying lifesaving drugs to maintaining natural ecosystems and recreational lands. In 2003, the amount we spent to implement the ESA was \$126 million - the same cost as 13 miles of a four-lane federal highway.