

# Greendays – An Environmental Almanac

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## Introduction

This column marks anniversaries of the nation's first major environmental bill, the filing of the first Endangered Species Act petition, and the common birthday of two former Secretaries of Interior, one acclaimed, the other vilified.

## National Environmental Policy Act

January 1 marks the thirty-year anniversary of President Richard Nixon signing the nation's first major environmental bill, the National Environmental Policy Act (NEPA), into law. Twenty-seven new laws to protect the environment were approved in the decade following passage of NEPA. The Act required government to "use all practicable means...to create and maintain conditions in which man and nature can exist in productive harmony." NEPA stated it was the Federal Government's responsibility to: 1) preserve the environment for future generations; 2) assure a healthy, pleasant environment for all Americans; 3) prevent environmental degradation; 4) preserve aspects of national natural heritage; 5) balance population growth and resource use; and 6) promote renewable resources and recycling. NEPA made federal agencies responsible for considering the environmental impact of their actions. A key part of the act was the requirement that Environmental Impact Statements (EIS) be filed for federal activities that would affect the environment. The first lawsuit brought under the NEPA guidelines was filed March 26, 1970 and involved a challenge to the application for construction of the Trans-Alaska pipeline.

## The Snail Darter and Tellico Dam

Law professor Zygmunt Plater and student Hiram Hill filed the first Endangered Species Act petition on behalf of a small fish, the snail darter, on January 20, 1975. The 1973 Endangered Species Act (ESA) allowed any person or group to request that a plant or animal be listed as endangered. Plater and Hill requested that the Department of the Interior formally list the snail darter as a species in threat of extinction. The threat was posed by construction of Tellico dam on the Little Tennessee River. In February 1976, Hill, Plater, and a collection of environmental groups sued the TVA in an effort to permanently halt construction of Tellico Dam. The case made its way up the judicial ladder until it was finally argued in the U.S. Supreme Court eight months later. On June 15, 1977, the Supreme Court ruled to suspend construction of the dam. Chief Justice Warren Burger stated, "It is clear that Congress intended to halt and reverse the trend toward species extinction whatever the cost."

The ESA was up for reauthorization before Congress the following year, and efforts were made to make the law friendlier to business. An amendment

was passed to create a committee to arbitrate between nature and economic interests. Because of their power to either save or condemn a species, the council was dubbed the "God" committee. The committee had to meet four tests to rule against a species: 1) there was no reasonable alternative action; 2) the economic benefits of the proposed project clearly outweighed possible actions to conserve a species; 3) the project had regional or national significance; and 4) the agency concerned had not made an irreversible commitment of resources to the project. The committee highlighted the lack of economic justification for the construction of Tellico Dam when it ruled in favor of the snail darter.

The battle waged on. In June 1979, Tennessee congressman John James Duncan used legislative slight-of-hand to sneak an amendment past Congress that provided an exception to the ESA for the Tellico Dam project. Fortunately, populations of the snail darter were later discovered in other Tennessee streams, and in July 1984, the Fish and Wildlife Service downgraded the snail darter's status to "threatened."

## Stewart Udall and James Watt

January 31st is the birthday of two former Secretaries of Interior, Stewart Udall (born 1920) and James Watt (born 1938). The Department of Interior was established in 1849 and controls approximately a quarter of the nation's land. Stewart Udall served as Secretary of Interior from 1961-1969 under Presidents Kennedy and Johnson. During his tenure the park system added four national parks, and the first national seashores, national trails, and wild and scenic rivers were established. Udall's blind spot was in western water and power issues. As a congressman he had supported the damming of Echo Park, but Udall wasn't an easy mark for western interests and generated controversy by doubling fees for grazing on public lands.

Prior to James Watt's appointment as Ronald Reagan's Secretary of Interior in 1981, he was head of a conservative legal foundation that assisted businesses in challenging government regulations. Watt reached back to the last century for a federal policy on public land issues that governed the transfer of public lands to private ownership. Congress imposed a moratorium on offshore oil drilling when it learned he planned to open a billion acres of the outer continental shelf to drilling and exploration. Watt conducted the largest coal-leasing operation in history while reducing staff of the Office of Surface Mining Reclamation and Enforcement, the agency with the job of regulating coal mining operations. Watt's policies made him a lightning rod for conservation groups. Ironically, membership of environmental groups climbed significantly during his tenure. Watt resigned from his position under pressure from the President in October 1983.