

# Snail Darter/Endangered Species Act DeListing: The Fish that Faced Off Against the Tennessee Valley Authority is Proposed to be Classified as Recovered



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The United States Fish and Wildlife Service (“Service”) issued a pre Federal Register publication proposing to remove the Snail Darter from the Federal Endangered Species Act (“ESA”) list of endangered and threatened wildlife. See Docket No. FWS-R4-ES-2020-0152.

The Snail Darter is a small freshwater fish native to the Tennessee River Watershed.

The Snail Darter has historical significance. It was the subject of the 1978 United States Supreme Court case Tennessee Valley Authority vs. Hill.

The United States Supreme Court addressed whether the three-inch long fish, which had been listed as endangered under the ESA, could prevent the completion of the Tellico Dam on the Little Tennessee River. This case was the initial significant judicial test of the strength of the then recently enacted ESA.

The Supreme Court ruled that despite the economic ramifications of preventing the completion of a partially-finished dam, the protective provisions of the ESA trumped these concerns. The Tellico Dam was later built to a subsequently enacted Congressional exemption. However, pursuant to the ESA, measures were undertaken in other waterbodies to sustain and grow a viable population.

The Center for Biological Diversity notes that, motivated by the ESA’s requirements, the Tennessee Valley Authority improved dam operations to increase oxygen and provide pulsing flows to reduce sediment on river bottoms below dams. Further, reductions in pollution due to the Clean Water Act are also stated to have contributed to the Snail Darter’s recovery throughout its range. Populations of the Snail Darter are now found in several waterways in Tennessee, Alabama, Georgia and Mississippi.

The ESA sets forth procedures for reclassifying species, or removing species from the List of Endangered and Threatened Wildlife. Species may be delisted if the best available scientific and commercial data indicate that:

1. The species is extinct
2. The species does not meet the definition of endangered species or a threatened species when five factors specified by the ESA are considered
3. The listed entity does not meet the statutory definition of a species

The Service states that it has determined that the Snail Darter no longer meets the definition of an endangered species or a threatened species under the ESA.

A copy of the proposed rule can be found [here](#).