



The fish that roared

David Dickson describes how attempts to save a fish—the snail darter—are threatening the Endangered Species Act

THE Tennessee Valley Authority agreed last week to revise its previous intransigence on plans to complete a \$120 million dam that could involve the extinction of a rare species of fish, the 3-inch snail darter.

Two members of the TVA board, chairman Aubrey Wagner and David S. Freeman, agreed to consult with the Department of the Interior over ways of preserving the fish.

The snail darter has become a national celebrity since its discovery in 1973, and the realisation that its only known habitat in the Little Tennessee River was threatened by the Tellico Dam, then 90% complete. Under the Endangered Species Act of 1973, federal agencies cannot carry out any project that would destroy the natural habitat of a species listed as endangered by the Interior Department.

Since the act was signed, the department has been consulted over 5,000 times by various agencies on proposed projects. Only in three cases has there been major disagreement: the Mississippi sand-hill crane (threatened by a state highway interchange) the Furbish lousewort (a small plant) and most notably the snail darter.

Last year an appeal court rejected a request from the federally-owned TVA that it be allowed to proceed with completing the dam. The case was heard in the Supreme Court last month, and judgement is expected in mid June.

The case has become a classic confrontation between environmentalists and corporate interests (a struggle further highlighted two weeks ago when Robert Strauss, President Carter's economic trouble-shooter, raised a furor by claiming that environmental measures were inflationary).

Supporters of the TVA—and indeed of other large-scale construction projects throughout the country which are similarly threatened—argue that they are facing an “environmental extremism” which ignores the important economic benefits of such projects.

Opponents of TVA put forward two main arguments. The first is that, faced with the possibility that up to 20% of known species could disappear by the end of the century, giving way

on the snail darter would provide a dangerous precedent for other, more significant cases.

The second argument is that each species represents a unique genetic resource that could eventually prove of medical or scientific benefit to man. Michael Beans, for example, chairman of the Environmental Defense Fund's Wildlife Programme, points to the example of the horse-shoe crab, whose blood was recently shown to be a highly efficient indicator of the presence of bacterial endotoxins in intravenous fluids.

Differences of opinion also emerged—somewhat to the Supreme Court's embarrassment—within the administration. Interior Secretary Cecil D. Andrus has stuck closely to the brief given to his Department by the Endangered Species Act, which allows no exemption from attempts to preserve threatened species.

However, Attorney General Griffin Bell, making his one (and so far only) appearance in the Supreme Court during the present administration with a bottled snail darter in his hand, argued strongly that the TVA should be allowed to complete the Tellico dam.

The new willingness of the TVA to discuss the preservation of the snail darter is therefore a significant shift from the position argued by last month's court hearing (and has largely been made possible by the resignation last week of the board's third member, William L. Jenkins, quoting frustration over the dam's completion as one of his reasons).

It also makes it easier for the Supreme Court to suggest, as a compromise formula, that no firm decision be made until the outcome is known of current attempts to establish the snail darter in an alternative nearby habitat in the Hiwassi River.

However, if this does turn out to be the Court's judgement, environmentalists claim that it will be “ducking the main issue”, namely whether the administration is prepared to stand firm on the Endangered Species Act and interpret it rigidly, or whether exemptions are to be permitted.

Already Senator John C. Culver of

Iowa and Senator Howard H. Baker of Tennessee have introduced a bill into Congress which would amend the act by setting up a seven-person committee which could, in cases of “irreconcilable conflict” between a federal agency and the Interior Department, judge on a majority basis whether an exemption from the act should be permitted.

The bill was reported out of the Senate committee on environment and public works at the end of last week, and stands a good chance of being accepted on the floor of the Senate (although it may face stiffer opposition in the House of Representatives, members of which are coming up for reelection in the autumn).

Supporters of the bill, admitting that it is largely a response to concern generated by the snail darter case, claim that it is nevertheless an attempt to protect, rather than dismantle, the main provision of the Endangered Species Act.

Opponents, however, argue that it would effectively create a committee which, for the first time in history, would have the power consciously to condemn a species to extinction.

Nor does the impact of the snail darter debate stop there. In addition to Mr Jenkin's resignation, Mr Wagner is also due to retire as chairman of the TVA board today (18 May); and President Carter has to select two new commissioners in addition to Mr Freeman, whom he appointed last year and who is expected to take over as chairman.

The President has, in the past, promised to make TVA into a showcase for his ideas about community development, and in particular a proving ground for energy innovation (such as solar power); Mr Freeman has been an outspoken advocate of such an approach, but has previously been speaking from a minority position.

However, nominations to the board must be approved by Congress. And local Tennessee Senators and Representatives are also concerned to see the continuance of one of the intended victims of Carter's energy policies, the Clinch River fast breeder reactor project.

Many eyes are therefore on the President to see which way he will turn in making his nominations. Except, perhaps, those of the snail darter itself, now in the middle of the mating season and with other things, no doubt, on its mind. □