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Battle lines drawn over species act

Pombo cites study in pushing overhaul; foes claim distortions.

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WASHINGTON - The courtroom has become a natural habitat for the Yosemite toad and critters like it.

Along with the mountain yellow-legged frog, the Yosemite toad is currently at the center of a lawsuit designed to secure better federal protection. But though the Sierra Nevada amphibians are unique, the lawsuit they have inspired is not.

Nearly three dozen similar lawsuits are now hopping through the nation's courts, a congressional report says. The 33 active lawsuits span the range from the western gray squirrel and California tiger salamander to Southern California's unarmored three-spine stickleback.

What those lawsuits reveal about the underlying Endangered Species Act depends, though, on who's talking.

"The (law) has not achieved its original intent of recovering species," said Tracy Republican Richard Pombo, chairman of the House Resources Committee. "In fact, there is little evidence

of progress in the law's 30-year history." Environmentalists say otherwise.

"Mr. Pombo does his best to twist and distort 'facts' in order to accomplish his real agenda: that of removing any meaningful legal protections for at-risk species," said Robert Stack, executive director of the Angels Camp-based Jumping Frog Research Institute.

Pombo commissioned the highly critical 87-page study as a prelude to the legislative fight ahead. Largely drawn from thousands of pages of prior government reports, the study identifies other aspects of the litigation burden.

The Fish and Wildlife Service, the study notes, is also coping with 40 court orders resulting from earlier endangered species lawsuits.

These include the court order forcing millions of acres to be designated as critical habitat for the California red-legged frog.

Regulators have also received 36 additional notices of intent-to-sue covering 104 species. Citing the study's findings, including the full-fledged

recovery of only 10 species out of nearly 1,300 listed as endangered or threatened, Pombo pledged to push this year for a comprehensive rewrite of the law.

"It's a blueprint, or a guide, for our effort to draft an ESA (Endangered Species Act) improvement bill," Resources Committee spokesman Brian Kennedy said.

But similar calls to action have fallen short over the past decade, as the Senate and moderate Republicans have declined to follow Pombo's lead.

The highest-profile effort in the last Congress, written by Merced Democrat Dennis Cardoza, would have stiffened rules for designating critical habitat. Critical habitat is that deemed essential for a species to survive and recover; federal agencies must consult with the U.S. Fish and Wildlife Service if their actions affect critical habitat.

The agency undertook roughly 4,000 formal and 71,000 informal consultations last year, according to the report.

Introduced in July 2003, Cardoza's bill died with the expiration of the 108th

Congress.

Cardoza has since reintroduced his bill with the aid of 24 co-sponsors, 18 of whom are Republicans.

Kennedy said it's likely this measure will be folded into the larger endangered species bill.

Pombo and Cardoza have worked closely together, and benefited earlier this year from an unusual joint fundraiser sponsored by prominent Stockton developer Greenlaw "Fritz" Grupe. San Joaquin Valley developers Howard Arnaiz, J.P. Nysten and Joseph Barkett, among others, joined in contributing to the local lawmakers.

"Mr. Pombo has long been on a crusade to gut the ESA, not improve it," Stack said. "The only thing he wants to improve is his ability to raise funds from wealthy developers; the only thing that's changed is the packaging of his rhetoric."

The Center for Biological Diversity, which has filed a number of the endangered species lawsuits, lost its first round in its legal effort to compel protection for the Yosemite toad. An appeal is under way.