

The Modesto Bee

SPECIES ACT DRAWS POMBO, CARDOZA FIRE VALLEY LAWMAKERS SAY PROTECTIONS ONEROUS

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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 at the center of a lawsuit designed to secure better federal protection for the species.

But while the Sierra Nevada amphibians are unique, the lawsuit they have inspired is not.

Nearly three dozen similar lawsuits are hopping through the nation's courts, a new congressional report issued Tuesday noted. The 33 cases span the range from the western gray squirrel

and California tiger salamander to Southern California's unarmored threespine stickleback, a freshwater fish.

What those lawsuits reveal about the Endangered Species Act depends 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 a legislative fight ahead. Largely drawn from thousands of pages of prior government reports, the study identifies other aspects of the litigation burden beyond pending lawsuits.

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

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

Looking ahead, regulators have received 36 additional notices of intent-to-sue covering 104 species. Citing the study's other findings, including the full-fledged recovery of only 10 species out of nearly 1,300 listed as endangered or threatened, Pombo pledged to push a comprehensive rewrite of the law this year.

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

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, authored by Merced Democrat Dennis Cardoza, would have stiffened

rules for designating critical habitat.

This is habitat deemed essential for a species to survive and recover; federal agencies must consult with the 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 reintroduced the bill with the aid of 24 co-sponsors, 18 of whom are Republicans. Kennedy said it's likely the measure will be folded into the larger endangered species bill.

Pombo and Cardoza have worked closely together, and they benefited earlier this year from a joint fundraiser sponsored by 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.

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