

Habitats now endangered

## **Many safeguards for imperiled species no longer needed, U.S. agency says**

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Once celebrated by Mark Twain for its jumping prowess, the California red-legged frog is teetering toward extinction after generations of miners, home builders and farmers have trampled its native lands.

Four years ago, the U.S. Fish and Wildlife Service issued special habitat protections for the frog that covered more than 4.1 million acres from San Diego to Plumas counties.

In an about-face, the agency recently said the vast majority of those safeguards are no longer necessary. This month, it proposed scaling back such defenses on 82 percent of the territory, which included 11,000 acres in San Diego County.

Nationwide, similar reversals have taken place for other threatened or endangered plants and animals. Federal land protections for them are shriveling rapidly.

In 10 of its most recent announcements for imperiled species in California, Fish and Wildlife rolled back earlier designations and proposals for habitats by an average of nearly 77 percent.

In those cases, a total of more than 4.2 million acres were removed or proposed for removal as critical habitat, a legal designation that covers public and private lands. The agency has made similar reductions for at least five other Southern California species in the past 18 months.

Fish and Wildlife's new approach is an important victory for developers and farmers. For years, they have chafed under habitat rulings they contend were written with scant data about the species and little regard for other uses of the land, from off-roading to ranching.

But the habitat reductions are likely to generate more lawsuits by conservation groups.

"This is a wholesale attack on the Endangered Species Act through this back-door approach," said Dan Silver, executive director of the Endangered Habitats League in Los Angeles.

The downsizing is particularly prevalent in California, which has a high concentration of federally protected species and has become a hotbed for related litigation. But the new protocol is rippling across the country, according to the National Wildlife Federation.

Last year, the federation analyzed nearly four dozen critical-habitat designations made since President Bush took office in 2001. The study reported that habitat recommendations from the agency's biologists were reduced by 50 percent on average.



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Carol Bell, the resource manager for the Santa Rosa Plateau Ecological Reserve, walked along Owl Creek last week in search of the California red-legged frog.

At the national level, Fish and Wildlife officials said the agency doesn't tally overall changes in the size of critical habitats. About 1,270 species are listed as threatened or endangered, and about one-third of those have designated critical habitats.

The agency said habitat reductions are designed to lessen the financial impact of the Endangered Species Act and minimize overlap with local efforts, such as San Diego County's Multiple Species Conservation Program. Improved mapping technology and better information about where species live have also contributed to the scaled-down designations.

"There is no standardized application of a particular policy (that) all critical habitat must be reduced," said Jane Hendron, the agency's spokeswoman in Carlsbad.

Critical habitat consists of geographic areas essential to a species' survival and may demand special conservation measures. The type and extent of this protected habitat vary widely by species but can include everything from wetlands to deserts.

When critical habitat is identified, federal agencies must try to ensure that any action they authorize, fund or carry out won't likely harm the species.

Fish and Wildlife officials said critical habitat is redundant to other protections that make it a crime to hurt threatened or endangered species. It typically issues habitat rulings only in response to lawsuits from environmental groups. The agency prefers voluntary partnerships with landowners.



### Shrinking habitats for 10 species (PDF)

As a result of the rollbacks, the agency has drastically reduced the areas where landowners may be forced to consult with the government before they start building projects. These consultations can increase development costs by involving lawyers, mitigation projects and expensive revisions to construction blueprints.

The agency's actions also are giving hope to off-roaders concerned that certain plants and animals have trumped access to public property.

"We see an attempt by Fish and Wildlife to be more reasonable," said Roy Denner, president of the Off-Road Business Association in Santee. "It's good for everybody . . . who has a sense of multiple uses of federal lands."

In addition, property-rights advocates are heartened by Congress' consideration of a major overhaul of the Endangered Species Act. The legislation would essentially do away with critical habitats.

In the case of the red-legged frog, Fish and Wildlife said its 3.4 million-acre rollback eliminated areas with little benefit to the frog.

The frog's zone is likely to shrink again before the agency's downsizing proposal is finalized by the Interior Department. But even then, its remaining critical habitat would drive up housing costs in the affected areas by thousands of dollars per unit and decrease the number of new homes by 760 over 20 years, according to a consultant's report. The greatest impact would be felt in San Luis Obispo, Alameda and Contra Costa counties.

"It's already so difficult to get housing approved in California – particularly in areas like the Bay Area and San Diego – that additional critical-habitat restrictions can really make or break a project," said Paul Campos, general counsel for the Home Builders Association of Northern California.

Environmental groups say the Bush administration is catering to conservatives at the expense of species.

"By reducing critical habitat, you are effectively reducing chances for recovery," said Ileene Anderson at the California Native Plant Society in Los Angeles.

Political appointees are inflating the financial cost of protecting a species to justify habitat downsizing, said Daniel Patterson, an ecologist at the Center for Biological Diversity in Tucson.

"We have seen that by and large, the (agency's) field biologists are able to put forward decent recommendations for critical habitat," he said. "Then they go to Washington, and (Assistant Secretary for Fish and Wildlife) Craig Manson slashes them."

Critics of the agency suggest that economists overlook or underreport the benefits of species protections. In some places, for instance, people pay higher housing prices to live near open space.

Besides the complexity of calculating that premium, it's tough to forecast what land might remain unpaved in two decades and what economic value it would have at that time, said David Sunding, a professor of environmental economics at the University of California Berkeley and a part-time consultant on federal habitats.

Sunding said benefits are considered, but they are not always quantified in dollars and cents. It's much easier to calculate the potential costs of habitat designations – for example, mitigation fees, lawyer bills and smaller developments.

As a result, safeguards for protected species routinely rack up big negative numbers. In the frog case, development opportunities that would be lost to critical habitat over two decades have been pegged at \$497 million.

In previous years, the service issued broad-brush decisions on critical habitats. Now it concedes that such rulings did not always match the true needs of the targeted species. In some cases, for instance, freeways and airports received critical habitat status.

"As a result of litigation and perhaps a clearer application of the law, we are now required to do a far more extensive economic analysis . . . to determine if a particular industry or geographic areas are bearing a disproportionate economic burden," said Jeff Humphrey, a spokesman for the agency's office in Phoenix.

One pivotal lawsuit involved the Alameda whipsnake, a slender black reptile with yellowish racing stripes. Five years ago, the service awarded the snake – which lives in the Bay Area – slightly more than 406,000 acres of critical habitat.

In 2003, a federal judge in Fresno tossed out that decision and told the agency it needed better biological and economic justification. The developers who brought the suit said Fish and Wildlife's initial decision would have hampered construction.

The most recent proposal, issued in mid-October, was for 203,342 acres – a 50 percent reduction.

Downsizing of critical habitat for the red-legged frog and whipsnake "removed a very large cloud over home building in the Bay Area," said Campos of the home-building association.



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Carol Bell, the resource manager for the Santa Rosa Plateau Ecological Reserve, walked along Owl Creek last week in search of the California red-legged frog.


Fish and Wildlife officials said they axed a large chunk of the snake's habitat because it falls under conservation plans managed by local governments in conjunction with landowners.

"For us to go and impose an additional layer of protection . . . after the fact would certainly not make them ready to come back to the table with us in the future," said Humphrey, the agency spokesman.

Some environmentalists hail the partnerships between property owners and local governments as a way to curtail red tape for development projects. Others worry that if the local conservation efforts fail, struggling species will be left with too few federal protections.

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