

Feds sued over habitat loss

Groups say politics trumped duty

By Julia Scott
STAFF WRITER

A lawsuit filed by a San Francisco-based environmental group on Wednesday accuses the U.S. Fish and Wildlife Service and the Department of the Interior of neglecting to protect one of the state's most vulnerable threatened species, the California red-legged frog.

The suit, filed in a federal court in San Francisco on behalf of the Center for Biological Diversity, suggests the agencies bowed to political pressure from the Bush administration when they reduced the amount of federally designated "critical habitat" of the California red-legged frog by 90 percent last year.

Within critical habitat boundaries, developers seeking federal permits for their project must obtain an additional permit from the Fish and Wildlife Service.

An amendment to the Endangered Species Act in April 2006 saw more than 3.7 million acres cut from the statewide list of areas crucial to the species' continued existence — from a proposed 4.1 million acres in 2001 to roughly 250,000 acres in 2006. The lawsuit says the changes made it nearly impossible for the federally threatened species to rebound. Habitat for the species had already declined by 70 percent in 2000 from the 1950s, according to the Fish and Wildlife Service.

Several Bay Area counties were deeply affected by the changes. In San Mateo County, some areas known to contain abundant red-legged frog populations, including Montara Mountain near Devil's Slide, were taken off the list, along with the entire Coastsides.

Only 818 of 241,000 acres on record in Alameda County as potential critical habitat remain; in Contra Costa County, 137,000 of potential critical habitat for the frog was whittled down to 0.005 percent of the original.

The lawsuit is one of 13 filed across the country on Wednesday challenging changes to the protected status of 55 endangered species under the Bush administration. At its center is former Interior Department Deputy Assistant Secretary Julie MacDonald, a political appointee who resigned in April amid an outcry by government scientists and environmental groups, who accused her of manipulating the scientific conclusions of biologists to eliminate essential habitat and remove animals from the endangered species list.

Her actions are the subject of ongoing investigations by the Interior Department's Office of the Inspector General. A report from the Inspector General completed earlier this year found that MacDonald had "interfered" in the endangered-species designation process, despite having "no formal background in natural sciences," according to media reports.



A red-legged frog is shown in this updated file photo. The U.S. Fish and Wildlife Service reduced the habitat it originally said was needed to protect the threatened California red-legged frog, the species believed to be the inspiration for the famous Gold Rush-era tale by Mark Twain. The area originally designated to protect the frog would have been the largest such habitat in California before the wildlife service slashed it by 80 percent. (AP Photo/University of California, Santa Barbara)

Based on these events, U.S. Fish and Wildlife Service Director Dale Hall recently announced the agency would re-evaluate critical habitat areas for seven threatened and endangered species, including the California red-legged frog.

Fish and Wildlife Service spokesman Al Donner called the lawsuit "a frivolous activity."

"We've already begun work on this," he said. "This will clog up the process for doing work on many other species."

But Jeff Miller, conservation advocate for Center for Biological Diversity, said his group still doesn't trust the government to make decisions based on science rather than politics.

"They're reviewing seven decisions. That doesn't guarantee they're actually going to do anything," Miller said. "We're doing this because even if MacDonald hadn't tampered with it,



WATERSHED RESOURCES MANAGER Joseph Naras searches for signs of a red-legged frog in a small pond on top of the Crystal Springs Dam in 2005. A suit alleges that the Fish and Wildlife Service and the U.S. Department of the Interior violated the Endangered Species Act by reducing critical habitat for the frogs. (RON LEWIS Staff file)

the final delineation was completely flawed. It wasn't based on sound science."

Economic considerations were central to the decision to slash critical habitat for the frogs, especially in the Bay Area, according to Donner. The development community successfully challenged the original habitat boundaries in 2001, when a court ruled that the agency had been too broad in its designation and had not considered the economic impacts to developers.

The result was dramatic cuts across the Bay Area, and particularly in the fastest-growing areas of Contra Costa, Alameda and San Luis Obispo counties, said Donner. An economic analysis commissioned by the Fish and Wildlife Service found that if all the critical habitat areas were maintained, it could result in an economic loss of close to \$500 million over 20 years.

At the time, officials reasoned that some of the habitat areas cut from the list were already under state protection or a local management plan.

That would be the case for San Mateo County's coastal areas, which are protected under the Coastal Act. Public parks, such as Butano State Park near Pigeon Point Lighthouse, were left out on the basis that they were already protected from development. No land in Half Moon Bay was designated as critical habitat by the service, in spite of the fact that red-legged frogs are ubiquitous in some areas and have been recognized by the city for decades.

Donner pointed out that the frogs continue to be protected under the Endangered Species Act, which prohibits anyone from harming them. Miller called that argument a red herring.

"Critical habitat is the teeth of Endangered Species Act," he said. "Merely listing a species only protects individual animals. Critical habitat protects the habitat that's been identified as essential for the recovery of the species. No species can survive without its habitat."