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Senate sets out on long road to re-examine ESA

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The Senate Environment and Public Works Committee set out in its consideration of the Endangered Species Act yesterday with indications of a lengthy road toward any effort to revamp the bill. Members at a subcommittee hearing said they would be reticent to quickly or drastically change the act in a way that might put species further at risk.

The comments came as part of the Wildlife Subcommittee's first ESA hearing of the year, which took a broad overview of the act and gathered testimony from Bush administration officials and representatives of environmental and property rights groups.

The hearing comes as House Resources Chairman Richard Pombo (R-Calif.) is chomping at the bit to revise ESA. Pombo has held hearings and released reports criticizing the act and expects to introduce a comprehensive ESA bill in the coming weeks.

But Senate Wildlife Subcommittee Chairman Lincoln Chafee (R-R.I.) said his side of the Hill is not ready to move forward on legislation that soon, with yesterday's hearing a "starting point" and "first step" for what he sees as a lengthier process of consideration.

"I am wading into this apprehensively," Chafee said in remarks to reporters after the hearing. "I don't want to do any damage or weaken ESA, that is my concern."

Chafee identified "excessive litigation" and controversies like those in the Klamath Basin, where water was diverted from farmers to aid sucker fish, as his primary concern in looking to revise the act.

He also identified as a starting point for discussion a bipartisan bill that his father backed in 1997, saying he would like to address some concerns environmental groups had about the measure. That bill, S. 1180, revamped ESA's recovery program and deadlines and gave additional protections to landowners in voluntary habitat conservation agreements.

EPW Chairman James Inhofe (R-Okla.) said he would like to see ESA encourage voluntary wildlife conservation programs on private land, similar to the Partners for Fish and Wildlife program. Inhofe proposed legislation earlier this year to extend the partners program, which provides matching grants for landowners to restore fish and wildlife habitat on their own lands, much like the voluntary farm bill conservation programs.

But neither Chafee nor Inhofe would give a timeline for when ESA legislation might move forward.

Chafee said the panel plans to hold several more hearings, but none are yet on the calendar.

Environmentalists are beginning to look to the Senate as their line of defense against the sort of legislation they expect to see come out of the House Resources Committee, which passed two ESA bills last year that environmental groups widely protested.

Half of the Senate subcommittee's non-governmental witnesses were from environmental groups, and Chafee said yesterday he wanted to be sure to keep them on board.

Pombo has characterized ESA as “broken” legislation that has failed to adequately recover species, while costing the government and private property owners millions of dollars.

But at yesterday’s Senate hearing, where Democrats outnumbered Republicans, the dialogue centered more around the act’s success at keeping species from extinction. Subcommittee ranking member Hillary Rodham Clinton (D-N.Y.) and Sens. Frank Lautenberg (D-N.J.) and Jim Jeffords (D-Vt.) all spoke in favor of bolstering ESA.

“We are on the brink, according to scientists, of seeing many forms of life disappear,” said Clinton. “This is not as dire in the United States as elsewhere, and I would argue strongly that one reason is the Endangered Species Act. We ought to be proud.”

But while senators praised the act, they conceded there could be some areas where they would support change — with multiple members identifying landowner incentives, habitat and the involvement of states as top concerns.

Recommendations for change

The recommendations for change from various witnesses at the hearing ranged widely.

Interior Assistant Secretary Craig Manson said congressional action is needed to stop the “gridlock” that has occurred over critical habitat designations.

“This is the most costly and least effective part of the law, with little additional value,” Manson said. “It’s counterproductive.”

And Robin Nazzaro, Natural Resources and Environment Director of the Government Accountability Office, said federal officials need to do more to make sure new research is a part of ongoing species management decisions.

Nazarro said FWS has spent over \$100 million on research and recovery efforts for the endangered desert tortoise, with little knowledge on the species status, key threats or the effectiveness of management options. For instance, the Bureau of Land Management eliminated sheep grazing on 800,000 acres of endangered tortoise habitat five years ago, but has not completed any follow-up to see if had benefited the tortoise.

John Kostyack of the National Wildlife Federation said ESA revisions should include efforts to have federal officials: implement recovery plans and encourage proactive conservation; provide more landowner incentives; protect critical habitat and integrate its deadline with recovery plans; and provide adequate funding.

Montina Fontaine of the National Endangered Species Act Reform Coalition, which represents different business and landowner groups, agreed on some of the basic areas for revision, citing voluntary conservation efforts, increased involvement of states, and recovery objectives, as well as prelisting of species and critical habitat.

But negotiating compromise on the particulars of each of these issues will be the real challenge for the Senate, as Chafee vowed to work to keep environmentalists and other concerned groups on board. Agreement among those groups starts to break down once the various options for each change are examined — with environmentalists wanting to beef up protections and some landowner groups hoping to give property owners a break.

“The overriding problem with the ESA is that it doesn’t balance species protection with human needs,” said Reed Hopper of the Pacific Legal Foundation, a property rights group.

And Jamie Rappaport Clark, a former FWS director under the Clinton administration now working for Defenders of Wildlife, stressed continued conservation of habitat as key in any efforts to move forward with ESA.

“When the nation rejoiced last month at the return of the ivory-billed woodpecker, [Interior] Secretary [Gale] Norton said that we rarely have a second chance to save wildlife from extinction,” Rappaport Clark said. “But the Endangered Species Act is all about first chances to do the same thing, about preventing wildlife extinction now, just in case nature is out of miracles.”