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US sued over endangered toad

An environmental group and a Christian prayer network have joined forces to sue the Bush administration over the fate of an endangered toad - the same "hapless" amphibian at the centre of a legal opinion by US Supreme Court nominee John Roberts.

The Centre for Biological Diversity and Christians Caring for Creation claim in their federal lawsuit that the US Fish and Wildlife Service failed to protect the California habitat of the endangered arroyo toad.

Roberts issued an opinion in a separate case involving the arroyo toad in 2003, while sitting as a judge in the US Court of Appeals for the DC Circuit, an opinion that has been criticized by liberal groups as evidence of his "radical" views on states rights and environmental laws.

In that case an appeals court found the federal government could use the Endangered Species Act to stop a developer from building on land that was designated part of the arroyo toad's habitat.

Roberts disagreed, questioning whether "a hapless toad that, for reasons of its own, lives its entire life in California," could be subject to federal laws.

He suggested that it should be up to California legislators to protect the toad.

The current lawsuit, filed last week in Riverside, California, claims that in cutting the number of hectares set aside for the toad from 478,000 to 12,000 in April, the Fish and Wildlife Service has threatened to drive the toad into extinction.

A spokeswoman for the US Department of the Interior, which oversees the Fish and Wildlife Service, could not be reached for comment.

"It's an unfortunate commentary on the willingness of this administration to undermine the Endangered Species Act," said David Hogan, a spokesman for the Centre for Biological Diversity. "Despite its small size this toad needs a lot of land to complete its life cycle."

Hogan said the centre has been working since 1999 to save the arroyo toad and called it a coincidence that the amphibian has also surfaced in the debate over Roberts' nomination - but added the group was happy to take advantage of that to