

Endangered Species Act in Cross Hairs

WASHINGTON _ Congress is taking steps to rewrite the Endangered Species Act for the first time in its 32-year history to make it more friendly to landowners and builders, a move decried by conservationists and welcomed by developers.

Environmentalists view the act as a signature accomplishment that has been vital in protecting the nation's natural heritage, from bald eagles to whooping cranes. But critics of the 1973 legislation have long charged that it shows more concern for the northern spotted owl and snail darter than for workers and property owners.

The House passed a bill to significantly rewrite the law in September, and the Senate is expected to adopt at least some of those changes. The House bill would require, for example, that the government pay developers if the act prevents them from building, and it would eliminate the government's ability to designate a creature's "critical habitat" where building is forbidden.

Opponents are still hoping to find enough allies in the Senate to thwart a move they see as part of a broad assault on the environment by the Bush administration and the Republican Congress.

"This is a reckless bill that would have profound consequences on protecting the nation's endangered species," said Robert Dewey, vice president of government affairs for Defenders of Wildlife. "As a general matter, it hardly matters what you do if you don't protect their habitats."

Another item in the House bill would let the Interior Department use commercial as well as scientific data in deciding whether to allow development. And the department would be limited to 180 days to make a decision; after that, developers would receive permission to build by default.

The bill awaits action in the Senate in a subcommittee chaired by Sen. Lincoln Chafee, R-R.I., who has often sided with environmental groups in the past. His spokesman, Stephen Hourahan, said Chafee wants any Senate bill to reinstate the "critical habitat" designation, but he added that Chafee intends to make changes in the act.

"What the senator wants is a bill that will actually pass, be effective and address some of the issues hindering the Endangered Species Act," Hourahan said. Chafee wants to look at alternative ways to reimburse land owners, he said, such as tax credits.

Supporters of an overhaul say it is long overdue. While developers say they have been hurt by the act, they argue, less than 1 percent of the roughly 1,300 species of plants and animals covered by it have been deemed fully "recovered," or no longer threatened or endangered.

"The act has failed miserably at recovering species," said Jason Lynn, federal legislative director for the National Association of Home Builders. "In the meantime, developers and builders are forced to comply with regulations and restrictions at great cost."

State farm bureaus, environmental groups, homebuilder associations and timber industry representatives will meet this month in Keystone, Colo., to look for a compromise on changing the act. Their report won't be ready until early next year, and Hourahan said no Senate vote is likely before then.

Even some Senate Democrats agree changes are needed, but they say they hope Congress won't render the act ineffective.

"In looking at the (act) and the issues surrounding it, I am convinced that it can be improved," said Sen. Blanche Lincoln, D-Ark., who has been working with Republicans on a compromise. "All parties involved recognize the value of biological diversity."

Even if the Senate waters down the House bill, property rights advocates may ultimately have the upper hand. Sen. James Inhofe, R-Okla., the chairman of the Environment and Public Works Committee who supports the House bill, and Rep. Richard Pombo, R-Calif., who sponsored it, would be partially responsible for appointing the members of a conference committee that would hammer out a final measure.

"Any deal that might be reached could come undone in conference," said Michael Bean, wildlife chair for Environmental Defense.

Pombo said he is determined to overhaul the act.

"The protection of those property owners has to be in the final bill," Pombo said on the House floor, "because the only way this is going to work is if we bring in property owners to be part of the solution and be part of recovering those species."

Pombo, a longtime property rights advocate and former rancher, is drawing the ire of the environmental lobby.

In recent weeks, he has proposed selling 15 national parks to developers and urged a vote on drilling for oil in the Arctic Wildlife National Refuge in Alaska. The Defenders of Wildlife Action Fund began a media campaign last week, "Pombo's in their pocket," to highlight his connections with the development industry.

But Senate committee staffers said any conclusions on what the Senate bill may look like are premature.

The act "has been implemented now for 30 years," said Bill Holbrook, spokesman for the Senate environment committee. "A lot has changed over that time. We have advances in science, better ways of managing things. There is definitely a need for modernizing it ... in a way that would include land owner participation in any process."