

# Agenda Report

**TO:** CITY COUNCIL **DATE:** March 6, 2006  
**THROUGH:** LEGISLATIVE POLICY COMMITTEE  
**FROM:** CITY MANAGER  
**SUBJECT:** OPPOSE THE ENDANGERED SPECIES RECOVERY ACT  
(HR3824) IN ITS CURRENT FORM

## **RECOMMENDATION**

It is recommended that the City Council urge Congress to oppose HR 3824 as currently written and address reform to the Endangered Species Act in such a manner that would not discourage further species protections, while maintaining a role for local jurisdictions in the decision-making process.

## **BACKGROUND:**

The Threatened and Endangered Species Recovery Act (HR 3824) was approved by the House of Representatives on September 29, 2005 by a vote of 226-193, with Rep. Adam Schiff voting against the bill. House Resources Committee Chairman Richard Pombo (R-CA) was the chief sponsor of the legislation, which proposes the most significant changes to the Endangered Species Act (ESA) since the law was first enacted in 1973.

The legislation would eliminate the ESAs "critical habitat" designation, which requires the U.S. Fish and Wildlife Service to outline land where development is restricted or prohibited because of the existence of a listed species. Such designations have been the primary source for scores of litigation over the years and resulted in a significant backlog in designations. The Pombo bill would replace the critical habitats with "recovery areas," where an option would exist for the protection of species in specific areas. It also includes requirements that the

Interior Department respond within 180 days to landowner inquiries on development they would like to undertake on their land.

Under the proposal, if the development is halted by the Interior Department, the federal government must pay the property owners for any value lost. This landowner reimbursement plan has quickly become the most controversial provision of the bill, with opponents citing it as an unnecessary and expensive entitlement program. Pombo insists that it is the only way to get private landowners involved in the species protection process and that 90 percent of all endangered species are located on private land.

HR 3824 faces an uncertain future in the Senate, where the chief sponsor of ESA legislation in that chamber, Senator Lincoln Chafee (R-RI), opposes both the elimination of critical habitat and the landowner reimbursement program. Chafee has been waiting for the results of a report on ESA reform that the Senate Environment and Public Works Committee requested from the non-partisan Keystone Center before crafting his own bill. That report is not expected to be completed by its original deadline.

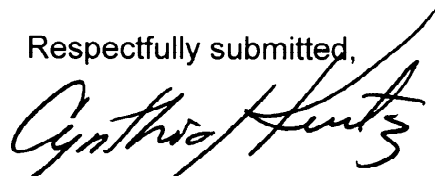
There is also concern that Chafee's authority over the issue will eventually be usurped by Senate Environmental and Public Works Committee Chairman James Inhofe (R-OK), whose views on ESA reform are more in line with Pombo's. If that were to occur, most observers feel that any bill containing landowner compensation and/or the elimination of critical habitats would be subject to a Senate filibuster.

Pasadena values its open space and the natural habitat that exists within our city. Both the westerly and easterly sectors of our City have natural areas that are precious in that they are the last vestiges of nature that make our City and region unique. At this time, there are a number of plants, birds and reptiles that have been identified in recent surveys as threatened or sensitive. The Arroyo Seco and Eaton Canyon contain both threatened and sensitive plant & animal species that are important to the ecology of these areas. The passage of this bill in its current form has the potential to negatively impact our future natural habitat by eliminating critical habitat protection.

**FISCAL IMPACT:**

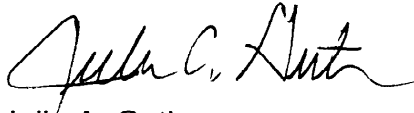
No fiscal impact will be incurred as a result of requesting amendments to HR 3824.

Respectfully submitted,

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CYNTHIA J. KURTZ  
City Manager

Prepared and approved by:

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Julie A. Gutierrez  
Assistant City Manager