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Changes to Endangered Species Act could remove roadblocks to energy development

By Sally Spaulding

As a sweeping rewrite of the Endangered Species Act makes its way to the House floor as early as this week, some environmentalists are fearful the legislation could further Colorado's already booming oil and gas industry.

"Oil and gas companies have already gotten the go-ahead from this administration to drill as much as possible," said Jacob Smith, executive director for the Center for Native Ecosystems in Denver. "This bill would eliminate environmental protections and further remove the public from having a say on what happens on our public lands."

According to the U.S. Bureau of Land Management, the federal agency that handles the leasing of mineral rights on public lands, 21,157 acres have been withheld from oil and gas development this year because of the presence of sensitive species.

The acreage is roughly 10 percent of the total parcels that were sold at lease auctions statewide this year.

"Those parcels were nominated by industry, but they never made it to auction because of endangered species-related issues," said Mel Lloyd, a spokeswoman for the Bureau.

The Threatened and Endangered Species Recovery Act of 2005 was approved by committee Thursday in a 26 to 12 vote and could, some say, change the ability of environmental groups and biologists from halting oil and gas development in critical habitat for sensitive species.

Supporters of the act, led by author and House Resources Committee Chairman Richard Pombo, R-Calif., said it would make the Endangered Species Act more effective.

Critics called the legislation counter to the purpose of the 32-year-old law meant to keep species from extinction.

"This legislation opens loopholes that allow big special interests to cast aside one of our country's most successful environmental laws," said Justin Tatham, advocate for the U.S. Public Interest Research Group.

Pombo said only 15 of 1,830 threatened and endangered species have been taken off the list, a testament to the current Endangered Species Act's failure as legislation.

One of the biggest changes included in Pombo's measure would create exemptions for consultation processes between federal agencies.

Under current law, the Bureau of Land Management must consult with the Fish and Wildlife Service before undertaking any activities that may harm endangered or threatened species.

"We currently consult with the BLM at several planning levels," said Al Pfister, Western Colorado field supervisor for the Fish and Wildlife Service in Grand Junction. "Once the BLM gets the specifics of a proposed lease parcel, we'll say 'OK, these are the specifics for how this should be done.'"

The measure would also allow the interior secretary to make decisions on scientific standards for declaring a species threatened or endangered, rather than relying strictly on biologists and scientists.

Critics said that would politicize the act's enforcement, making it difficult to block environmentally damaging projects or add to the list of 1,370 plants and animals considered threatened or endangered.

There are currently 32 species listed as threatened or endangered in Colorado, and 12 are awaiting listing as candidate species.

While seven parcels were withheld by the BLM from auction this year because of lynx, a threatened species under the Endangered Species Act, 17 were held for species that were listed as "candidates."

Candidate species are plants and animals the U.S. Fish and Wildlife Service has deemed scientifically worthy of listing as endangered or threatened, but higher priority activities have kept formal listing from happening, according to the Fish and Wildlife Service's Web site.

The Gunnison sage grouse is responsible for the withholding of 16 parcels from lease auction in Colorado this year, but the chicken-sized bird is a candidate species, with the Service predicting a final listing decision by September 2006.

"It's our policy to not take actions on sensitive species that would assist them to becoming endangered," said Duane Spencer, Bureau of Land Management branch chief of fluid minerals. "We won't lease right now where land is occupied by Gunnison sage grouse until we make sure we have the adequate stipulations that may need to be in place."

Environmentalists such as Smith say without the Endangered Species Act in its current form, the Bureau of Land Management and other federal agencies would have little incentive to deal with candidate species such as the grouse.

"If you change the act the way this bill does, it's going to be difficult to ever get the Gunnison sage grouse on the list. Then the BLM has a whole lot less incentive to do anything and can just let the oil and gas companies have their way," Smith said.

Susie Manicom, a spokeswoman for Williams Production, said her company often dealt with the hurdles endangered species presented to natural gas companies operating in western Colorado.

The company has worked to relocate roads and pipelines and coordinate drilling schedules around wildlife habitat to comply with requirements, she said.

"While protections for habitat are an important part of responsible development, it's also important to note the high demand and increased prices of natural gas," she said. "It's important we develop land while also protecting the environment."

Manicom said Williams had yet to form an opinion on the proposed reforms to the act.

Officials with EnCana Oil and Gas (USA) Inc., another company operating on the Western Slope, said they supported any change to the act that shifted the focus from "conflict and litigation to efforts at real conservation."

"Regardless of the outcome, we'll continue to work with regulators to ensure these species are protected," said Doug Hock, director of public and community relations.