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**U P D A T E**

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**June 17, 2004**

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**Judge halts assurances against endangered species “surprises”.** A federal judge on Thursday temporarily halted the government's ability to assure private landowners that they won't face unanticipated requirements for protecting endangered species after a development project is approved. Judge Emmet Sullivan's ruling bars federal agencies from providing any assurances under the “no surprises” rule adopted under the Clinton Administration. The rule, adopted in 1998, has given necessary protections to homebuilders, timber and mining companies, and other developers against unforeseen changes in providing species protections. Sullivan's ruling came in a case brought by six groups led by California-based Spirit of the Sage Council, which represents American Indians and environmentalists. Sullivan has given the Fish and Wildlife Service and NOAA Fisheries until December 10<sup>th</sup> to revise their regulations with more public input.

**Hundreds attend Resources Committee field hearing on ESA impacts.** Last week, the House Resources Committee held a field hearing in Carlsbad, New Mexico. Approximately 200 people heard testimony on the ESA's impact on the economy, agriculture, oil and gas industry and local government. Representatives from the agriculture community, the city of Carlsbad, the Carlsbad Irrigation District, state Rep. Joe Stell, D-Carlsbad, and the state Department of Energy and Minerals testified that immediate action must be taken to revise the Act. The hearing was part of the Committee's continued efforts to illustrate the need for ESA modernization. Another hearing is scheduled for July 17<sup>th</sup> in Klamath, Oregon. For additional information on witnesses and testimony from the Carlsbad hearing, go to:

[http://resourcescommittee.house.gov/archives/108/full/06\\_07\\_04.htm](http://resourcescommittee.house.gov/archives/108/full/06_07_04.htm)

**Rep. Graves introduces endangered species recovery bill.** Earlier this month, Rep. Sam Graves (R-MO) introduced H.R. 4475, the “Endangered Species Recovery Act of 2004.” The bill seeks to focus conservation efforts under the Act on the 109 species most in danger of extinction. It would also provide compensation to a landowner who lives off of his land if an endangered species is located on his property and he agrees to participate in conservation activities. H.R. 4475 was referred to the House Resources Committee.

**Court orders FWS to provide better response to ESA listing petitions.** A recent district judge court order called for FWS to stop following “Petition Management Guidance” that allows the agency to disregard citizen listing petitions if the species at issue is already on the agency's candidate list. FWS maintains that the candidate list is used to identify species that warrant listing but for which the agency lacks sufficient money, staff or time to protect. The ruling affirms an earlier decision from the D.C. District Court, which last year found that the Petition Management Guidance violates the ESA.

**Preble's mouse does not exist, study says.** A Denver Museum of Nature & Science study released last week stated that the threatened *Preble's meadow jumping mouse* is genetically identical to another common mouse species and thus never actually existed. The study may lead the FWS to delist the Preble's mouse from the Endangered Species List in December, according to a regional FWS official. Developers that must work around the mouse habitat said the study highlights a need to improve the ESA.