

H.R. 6354, the STORAGE Act

Rep. Paul Gosar (AZ-04)

Prevent Ineligible, Unstable Water Infrastructure Land from Being Counted Towards Species Habitat & Recovery Goals Under Endangered Species Act

Water reservoir land doesn't aid in species recovery, so it shouldn't be classified 'critical habitat'

Dear Colleague:

Based on their structural characteristics alone, certain areas simply don't make sense to be considered for designation as critical habitat under the Endangered Species Act. For one reason or another, they are obviously, clearly disqualified from being considered 'critical habitat' for failing to have any chance of meaningfully contributing to species recovery. One easy example that provides a particularly visceral demonstration would be an active volcano site covered in hot magma.

But there are examples of "critical habitat" proposals that are as inappropriate as the latter – but which are also regularly proposed. A common such one is land which, because it is within the immediate area of a man-made reservoir or water delivery facility, is regularly subject to dramatic fluctuations in water levels.

As a part of such water infrastructure's regular operation, they significantly alter the immediate landscape through raising and lowering water levels, periodically covering and uncovering that land in the process. Such areas are relatively small in acreage, but from an economic and public-interest standpoint are incredibly valuable on account of the service they provide and the resources they convey to the general public in the form of reliable electricity and water.

Such land, by design, lacks the ecosystem stability to be designated 'critical habitat' in the first place. And no reasonable person – and this *does* include reasonable bureaucrats – is interested in going forward with impeding and shutting down operations of our country's crucial water and power infrastructure by erroneously designating such land as 'critical habitat', when it is obviously anything but that.

In the past, the U.S. Fish & Wildlife Service (USFWS) has proposed critical habitat designations which pass through or include limited water infrastructure areas. Though these cases represented USFWS simply failing to understand before issuing a proposal that this land is inherently unsuitable for critical habitat designation under the Act's own definition – for failing to be free from "disturbance and destruction" – statutory language which provides for a de-facto exclusion of these limited areas that are crucially important for reservoir and water delivery operations across the country should be instituted in order to settle any confusion before it can take place, boost efficiency and categorically prevent these wrongful listings.

Limited reservoir and other artificial water delivery land is not useful for the endangered species in question because it in fact lacks the characteristics that would contribute to their recovery. But if it is designated "critical" under the Act, it counts towards species recovery efforts. This simple bill will ensure sure these confused and mistaken listings cannot take place – for the benefit of listed species, water and power infrastructure operators as well as water and power customers.

With questions or to cosponsor, contact jeff.small@mail.house.gov.

Sincerely,

Paul A. Gosar, D.D.S.
Member of Congress