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2. **INVASIVE SPECIES:** Many bills introduced to address problems, but few make it through Congress

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This story is part of an ongoing series on invasive species.

As with the issues of climate change or a proposed Endangered Species Act overhaul, the 109th Congress began its term with big ideas for addressing perceived problems caused by invasive species, but in the end, most proposed legislation was left undone or abandoned.

In a Congress marred by partisan politics, invasive species seemed to be one of the few areas where both parties could find common ground. According to the National Invasive Species Council, there were at least 31 bills proposed during the 109th session that dealt with invasive species in some way, with sponsorship divided almost equally between Republicans and Democrats.

The two houses of Congress came together on a handful of those bills. Among them was [H.R. 2720](#), a bill to study and manage the effects of salt cedar (or tamarisk) and Russian olive trees in the West. Last year's transportation measure, [H.R. 3](#), included some funding for eradication of noxious weeds near federal highway projects.

Those measures, while significant, are far outweighed by the larger, more aggressive bills that failed to pass or have yet to become law. Bills covering controls over ballast water, early pest detection and surveillance, and protections for the Great Lakes were just some of the measures that fell by the wayside.

"The 109th Congress is known as the 'do-nothing' Congress. We didn't expect anything different for invasive species," said Phyllis Windle, an invasive species expert with the Union of Concerned Scientists.

The fear that aggressive federal actions to limit invasive species would become "another Endangered Species Act" was a factor in keeping new legislation bottled up in key committees headed by Sen. James Inhofe (R-Okla.) and outgoing Rep. Richard Pombo (R-Calif.).

In September, the National Center for Public Policy Research (NCPPI) wrote to Inhofe, then-chairman of the Senate Environment and Public Works Committee, warning him of the dangers of invasive species legislation. The [letter](#), endorsed by scores of notable conservative individuals and organizations, said federal invasive species laws would be a "disaster" and could "open the door to virtually endless regulation of human behavior, including that pertaining to private land use, public land access and how and where Americans travel."

Opponents say there are plenty of existing laws that already address invasive species. The seminal Lacey Act -- a much-amended law that originally dates to 1900 -- regulates the introduction of birds and animals in areas where they are not native. By classifying a species as "injurious" under the act, the federal government can prohibit the importation of an invasive species in the country. The National Invasive Species Act of 1996 amended the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 to mandate the regulations that prevent invasive species from entering the Great Lakes through ballast water.

Several laws have addressed invasive species individually. In 2004, Congress passed a law to control and eradicate noxious weeds and another law creating control and eradication efforts on the island of Guam for the brown tree snake. But environmentalists say a clear, broad law that addresses invasive species is necessary if the country has a chance of managing the issue as a whole.

"If you keep with the species-by-species approach you'll never solve the problem," said Catherine Hazlewood, senior invasive species policy adviser for the Nature Conservancy. "An analogy would be saying the solution to solving water pollution is to have a bill for every kind of water pollutant."

Peyton Knight, NCPPR's director of environmental and regulatory affairs, said existing laws like the Lacey Act help guard against invasive species. Attempts to create new regulations "is not enhancing what we already have, this is embarking on an entirely new frontier that'll have some very unintended consequences," he said.

Tamarisk and olive trees

Of the numerous bills proposed during the 109th Congress, only one bill that solely focused on invasive species became law: **H.R. 2720**, the Salt Cedar and Russian Olive Control Demonstration Act.

Also known as tamarisk, salt cedar depletes surface water and groundwater and is believed to increase the salinity of soil, making the area inhospitable for native plants. Thought to have been introduced into this country from the Middle East in the 1800s, salt cedar spreads rapidly and supplants native species. A single salt cedar tree, for example, can consume up to 300 gallons of water per day and produce up to 500,000 seeds per year. Russian olive trees, brought to the West to control erosion, also suck the ground dry of water, turning the desert's native plants into dry kindling ripe for a wildfire (*Land Letter*, Dec. 14).

"Salt cedar may consume as much as 2 million to 4 million acre-feet of water per year, drastically impeding our precious water supply and crowding out native plants," said Rep. Steve Pearce (R-N.M.) in a statement following the bill's signing in October. "Through this initiative, we can finally begin attacking a serious threat to New Mexico's environment, economy, and public safety."

H.R. 2720 authorizes \$20 million in appropriations for fiscal 2006 and \$60 million over the four subsequent fiscal years for at least five demonstration projects that will study chemical, mechanical and biological ways of eliminating both plants. The projects will also study the effect such removal may have on the surrounding ecosystems.

Pearce originally introduced a slightly different version of the bill in early 2005 that called for a survey of the extent of the invasion of both species in the West and to set up a demonstration program for its eradication. But the bill, **H.R. 489**, was sent to limbo in the Resources Committee and the Agriculture Committee because it contained provisions that fell in the jurisdiction of both House panels.

Pearce reintroduced a revised version of the bill, H.R. 2720, in May that was identical to **S. 177**, introduced by Sen. Pete Domenici (R-N.M.), which called for studies of both plants and would establish a demonstration program for how to assess, manage and remove the plants. Domenici's bill differed from Pearce's in that it called for the Interior Department to conduct the work under the Reclamation Projects Authorization and Adjustment Act of 1992.

Invasive species were addressed less directly in a provision to last year's transportation bill. A provision in the Safe, Accountable, Flexible, Efficient Transportation Equity Act makes activities for the control of noxious weeds and the establishment of native species eligible for federal-aid funds under the National Highway System and the Surface Transportation System.

Other bills that passed during the 109th Congress only made a passing reference to invasive species. A bill by Sen. Mike DeWine (R-Ohio), **S. 2430**, amended the Great Lakes Fish and Wildlife Restoration Act of 1990. Among other things, it requires the director of the Fish and Wildlife Service to encourage and implement restoration proposals and regional projects that are consistent with several agreements and laws, including the Nonindigenous Aquatic Nuisance Prevent and Control Act of 1990.

Sen. Dianne Feinstein (D-Calif.) introduced a bill last year, **S. 1238**, that amended the Public Land Corps Act of 1993 to authorize the appropriation of \$15 million a year for implementing restoration, conservation and fire-prevention projects in national parks. Under the bill, the Public Land Corps would administer the projects, and youth conservation organizations would carry out the projects. As part of the bill, appropriate projects will include those that "address the impact of insect or disease infestations or other damaging agents on forest and rangeland health."

Left in the dust

While some more sweeping invasive species bills failed to pass the 109th Congress, some are likely to see new life when Congress reconvenes next month.

S. 1288, would allow the National Park Service to work with state, local or tribal governments to combat the spread of invasive exotic species like weeds both inside and nearby NPS lands. NPS had previously only been allowed to execute resources protection on nonfederal property if specifically authorized by Congress. NPS identified over 60 parks units that would benefit from S. 1288. The Congressional Budget Office estimates that considering few of these projects would cost over \$50,000, the total cost would only be a couple million, a drop in the bucket in the NPS's annual \$1.7 billion operating budget.

The bill passed the Senate in early October. There had been some hope that the bill would pass the House before the end of the session but in the end failed to do so. It is expected to be one of the first invasive species bills to be taken up by the 110th

Congress.

In 1993, the federal Office of Technology Assessment concluded that Hawaii receives more nonindigenous species annually than any other state and has the highest proportion of established nonindigenous species. Hoping to address the effects of non-native species on the world's most remote populated land mass, Rep. Ed Case (D-Hawaii) introduced [H.R. 3468](#) last year that called for a quarantine on Hawaii to prevent the introduction of invasive species and diseases on the islands.

In a op-ed published in the *Hawaii Reporter* last year, Case said that "the sheer rate at which it is now accelerating presents a true crisis, threatening now to completely overwhelm and permanently preclude our ability to provide any modicum of protection, and demanding that we go in a whole different direction of affirmative prevention."

The bill was referred to the House agriculture and resources committees last year but has seen no movement since.

Rep. Vernon Ehlers (R-Mich.), seen by many as a champion for invasive species legislation, proposed two bills that dealt specifically with aquatic invasive species: [H.R. 1591](#), the National Aquatic Invasive Species Act of 2005, and [H.R. 1592](#), the Aquatic Invasive Species Research Act. Both bills proposed to study the pathways that aquatic invasive species use to enter the country and to develop the means to prevent their entrance into U.S. waters. But the bills met heavy resistance in committee.

"Mr. Pombo did not favor the bills," Ehlers explained in an interview with *Land Letter*, referring to the California House member's position as chairman of the House Resources Committee. He said that Pombo had previously communicated to him that he would put the bills before the committee at the start of the new session, but with Pombo's defeat in last month's election that is no longer the case.

While scuttling Ehler's legislation, Pombo had proposed his own invasive species legislation that focused specifically on early pest detection and surveillance. While the Agriculture Department, along with many states and counties, already has measures in place to control pests before they establish themselves in a new environment, Pombo's bill, [H.R. 4049](#), would have authorized the USDA secretary to cooperate with local efforts to detect pests like the glassy-winged sharpshooter before they establish themselves.

A flying insect that has killed thousands of acres of grapes in California with a lethal bacteria, the sharpshooter represents a serious threat to the state's wine industry. Without Pombo in Congress, however, it is unlikely the bill will be resurrected next session.

Outlook uncertain

It remains unclear exactly where invasive species legislation will find its place in the 110th Congress with Democrats in control.

Invasive species were absent from incoming House Resources Committee Chairman Nick Rahall's (D-W.V.) proposed agenda for the next session, but with the departure of Pombo, some say the future is already looking brighter.

Lori Williams, executive director of the National Invasive Species Council, said the rising public presence of invasive species may also have an effect on new legislation. "People are starting to see this more and more as part of the larger issue of environment" that may bring the issue more attention as society becomes more eco-conscious, she said.

Aquatic invasive species legislation, particularly controls on ballast water from ships, will likely be introduced again in the new session.

Ehlers said he plans to reintroduce his bills during the next session, adding that he will be happy whether it passes on its own or as a component of another bill. "My philosophy is that regardless of how it passes, I'll be glad it passed," he said.

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