

Committee on Resources

resources.committee@mail.house.gov

[Home](#) [Press Gallery](#) [Subcommittees](#) [Issues](#) [Legislation](#) [Hearing Archives](#)

JON R. TULLY CARLSBAD CITY ADMINISTRATOR

REMARKS PRESENTED TO THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON RESOURCES IN CARLSBAD, NM ON JUNE 7, 2004 BY

Chairman Pombo, Honorable Members of the Committee, it is my honor and privilege today to appear before you to offer a few very brief comments and observations regarding the impact of the Endangered Species Act on Southern New Mexico.

On April 4th, Palm Sunday in fact, at about 4 A.M., after two and a half days of heavy, virtually unabated rainfall, flood waters of the Pecos River tributaries and watersheds to the north, south, and west converged on the City of Carlsbad, inundating more than 200 homes but, by the grace of God and the quick and professional actions of emergency responder, sparing from death and serious injury the hundreds of residents of those homes.

One of the many victims forced from home in the dead of night was a retired school administrator I have known for many years. His home and others near the lower lake had some 38-years ago been previously flooded when, in August 1966, an almost identical stalled weather system created a disastrous convergence of flood waters of the Pecos River and Dark Canyon. A third flood in June 1986, significantly damaged public property along the river but largely left private homes untouched.

There was then, you might imagine, a collective community sigh of relief upon the completion of Brantley Dam in 1988, which, although built in the wrong location, inspired us to believe its flood-control capacities and capabilities would provide the protection this community needed. Its benefit is undeniable, but because, geologically, it was not possible to locate the dam below a major tributary above Carlsbad, it could not retain the waters of Rocky Arroyo that accounted for the major flood inflows to the north.

At this point, the very valid question on your mind is what does the historical problem of flooding in Carlsbad have to do with the impact of the Endangered Species Act on Southern New Mexico? Actually nothing as far I know—at least in regards to the past; in regards to the future it may have a tremendous impact—and not a positive one.

The waters of the Palm Sunday flood had only just begun to recede when Congressman Pearce met here in Carlsbad to discuss with several representatives of local government, including myself, what assistance we needed now and what we might do to in the future. It is in the pursuit of the solutions that the ESA and the plethora of other environmental laws, rules and regulations may adversely affect our ability to implement effective mitigation—channeling a portion of Rocky Arroyo to Brantley Dam, dredging Avalon Dam back to its original 9,000 acre feet storage capacity, or reconfiguring the confluence of Dark Canyon at the Pecos. Such projects have been informally discussed over the years but largely dismissed, not because of engineering, not because of hydrological or hydraulic issues, not even because of cost, but because of the overwhelming environmental obstacles—real and anticipated—that regrettably take the wind out of our sails before we even push off from the dock.

Well-intended laws, such as the ESA, are too frequently drafted, enacted, codified, enforced, interpreted and litigated by those who will never personally confront the practical, real-world impediments and complexities and frustrations of compliance. And therein, from my perspective as a city administrator, lies the rub of the ESA: the absolute certainty that the path forward is uncertain as human needs collide with the seemingly immovable object of the ESA.

As you ponder the dilemmas of the ESA and its impact on Southern New Mexico, I would respectfully ask that you consider the comfort it will be to my old friend the next time he steps into the flood waters rising in his home to know that somebody's salamander or the such-and-such snail are well protected for future

generations even if he is not. Reason and balance must prevail.

Thank you