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Green group sues EPA for use of pesticides

Suit accuses federal agency of violating Endangered Species Act by allowing use of toxic chemicals in S.F. Bay Area

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An environmental advocacy group in San Francisco is suing the U.S. Environmental Protection Agency for using pesticides in the San Francisco Bay Area that affect endangered species.

The suit was filed Wednesday in the 9th U.S. District Court in San Francisco by the Center for Biological Diversity. It accuses the EPA of violating the federal Endangered Species Act by registering and allowing the use of 56 toxic pesticides in habitats for 11 San Francisco Bay Area endangered species without determining whether the chemicals jeopardize their existence.

Center spokesman Jeff Miller said that at least 61 million pounds of pesticide-active ingredients were applied in Bay Area counties from 1999 through 2005 — more than 8.5 million pounds annually — and said actual pesticide use may have been greater because most home and commercial pesticide use is not reported to the state.

Studies by the U.S. Fish and Wildlife Service, EPA, U.S. Geological Survey and state Department of Pesticide Regulation show that at least 56 pesticides of concern are used or accumulate in or near habitat for endangered species, including:

- Bay and Delta aquatic habitat for the critically endangered delta smelt and the tidewater goby.
- Tidal marshland habitat for the California clapper rail and salt marsh harvest mouse.
- Freshwater and wetlands habitat for the California tiger salamander, San Francisco garter snake and California freshwater shrimp.
- Dry land habitat for the San Joaquin kit fox, Alameda whipsnake, valley elderberry longhorn beetle and bay checkerspot butterfly.

Monterey County is home to the San Joaquin kit fox, red-legged frog, tiger salamander and tidewater goby, which are affected by 29 of the 56 pesticides named by the Center for Biological Diversity in the lawsuit.

Miller said the EPA is required under the Endangered Species Act to consult with the Fish and Wildlife Service about registration, re-registration and approved uses of pesticides that may endanger listed species or adversely affect their designated critical habitat. This is done to avoid authorizing pesticide uses that jeopardize the existence of endangered species.

The center is seeking pesticide-use restrictions in habitat for the 11 Bay Area species until EPA and Fish and Wildlife Service assessments of pesticide impacts are completed.

The center obtained similar protections for the California red-legged frog under a settlement signed by the EPA and the pesticide industry in October, Miller said. He said the use of 66 pesticides is prohibited in and adjacent to core frog habitat statewide for three years, until the EPA completes consultations.