

## **Judge: Bush Administration Pesticide Rules for Endangered Species Are Illegal**

*Pesticide lobbyists sought to remove checks and balances*

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**Seattle, WA --** A federal judge in Seattle today overturned new Bush administration rules that made it easier for pesticide makers to ignore the effects of their products on endangered plants and animals. The court set aside the administration's rules, and restored prior standards that provided greater protection to protected wildlife and plants. The ruling came in response to a lawsuit brought by a coalition of national and regional wildlife conservation and pesticide reform organizations.

**[Read the judge's decision here](#)**

"Pesticides are driving America's wildlife toward extinction, and this administration wants to remove the checks and balances that hold them accountable," said Patti Goldman, an attorney with Earthjustice, who is representing the coalition. "It's time for them to stop trying to sidestep the law, and start addressing this problem in a serious and systematic way."

Under the Endangered Species Act (ESA), the Environmental Protection Agency (EPA) is required to ensure that the use of pesticides won't set back the chances of survival and recovery of species threatened with extinction. The law mandates EPA to consult with wildlife specialists in the U.S. Fish and Wildlife Service and National Marine Fisheries Service to apply the best available science to meeting this obligation.

The challenged rules -- the product of fierce closed-door lobbying by pesticide companies -- cut the wildlife scientists out of the equation, effectively allowing pesticide managers at EPA, not wildlife experts, to make key decisions about the impact these chemicals have on protected species. By eliminating the checks and balances built into the ESA through inter-agency consultation, the new rule makes it easier for agribusiness and other industries to use highly toxic pesticides despite the risks to the environment. Scientists, conservationists, and members of Congress had strongly opposed the rule change.

The judge determined that the rules were "arbitrary and capricious" because they ignored the risks to species and because political appointees at the US Fish and Wildlife Service ignored the concerns of its own scientists. The ruling found that the rules would "actually result in harm to listed species". [pg 37, linked above] and noted the "total absence of any technical and scientific evidence to support or justify" the agencies' rule. [pg 35] He also found that the agency had violated the law by failing to prepare an environmental impact statement assessing the impacts of, and alternatives to, the proposal.

The EPA has flouted its obligation to consult with federal wildlife experts for many years. Jamie Rappaport Clark, formerly the director of the U.S. Fish and Wildlife Service, and now Executive Vice President of Defenders of Wildlife, one of the plaintiffs in this case, said that faulty science and unsound analysis has been the result. "Up to now, EPA's track record in addressing the effects of pesticides on endangered species has been abysmal. Instead of solving the problem, they simply weakened the rules -- allowing more potentially dangerous chemicals to be pumped into the environment without proper review. The court has put a stop to that."

Pesticides have proven to be a major factor in the decline of species as diverse as bald eagles, salmon, frogs, and sea turtles. Government data show that pesticides already jeopardize more than 375 endangered or threatened species across the country, according to "Silent Spring Revisited," a report released in July of 2005 by the Center for Biological Diversity. "The last thing America's most imperiled wildlife needed was another Bush Administration rollback that could make their prospects for survival worse," said John Kostyack, senior counsel for the National Wildlife Federation. "The judge's decision means that these species may still have a fighting chance against pesticides."

Today's victory for America's wildlife faces another threat in the form of a Congressional House bill -- sponsored by U.S. Representative Richard Pombo -- that would give pesticide makers a five year pass from having to comply with the ESA. Fortunately, the Senate has not approved this measure.

**Contact information for plaintiffs:**

Center for Biological Diversity, Jeff Miller, 510-499-9185  
Defenders of Wildlife, Mike Senatore, 202-682-9400 ext 123  
Helping Our Peninsula's Environment, David Dilworth, 831-624-6500  
National Wildlife Federation, John Kostyack , 202-797-6879  
Natural Resources Defense Council, Aaron Colangelo, 202-289-2376  
Northwest Coalition for Alternatives to Pesticides, Aimee Code, 541-344-5044 ext 27  
Pacific Coast Federation of Fishermen's Associations, Glen Spain, 541-689-2000  
Washington Toxics Coalition, Erika Schreder, 206-632-1545 ext. 119.

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**Read the Judge's Decision Here:** <http://www.earthjustice.org/news/press/006>

**BACKGROUND DOCUMENTS**

Center for Biological Diversity's study on pesticide use and endangered species  
<http://www.biologicaldiversity.org/swcbd/Programs/science/pesticides/index.html>

Letter from congressional members opposing proposed new pesticide regulations  
[http://www.pesticide.org/ESA\\_Congress\\_LetterJune04.pdf](http://www.pesticide.org/ESA_Congress_LetterJune04.pdf)

Case studies on pesticide threats to endangered species  
<http://www.pesticide.org/counterpartflyer.pdf>

Fact sheet explaining FWS & NMFS shifting scientific positions on pesticide protection  
<http://www.pesticide.org/counterpartservices.html>