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Judge rules in favor of state's jumping frogs

EPA told to examine pesticides that may be poisoning hopper

- Bob Egelko, Chronicle Staff Writer

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A federal judge has ordered the Environmental Protection Agency to take a closer look at pesticides that may be poisoning California's famed jumping frog.

Ruling Monday in a suit that was filed more than three years ago, U.S. District Judge Jeffrey White of San Francisco said the EPA has violated its duty to determine whether 66 pesticides are harming the California red-legged frog or its habitat.

The frog, which was the title character in Mark Twain's "The Celebrated Jumping Frog of Calaveras County," has disappeared from nearly three-quarters of its natural range and was listed as threatened by the government in 1996.

White told the agency to consult with the U.S. Fish and Wildlife Service, whose biologists are the government's experts on amphibians, about whether EPA-approved pesticides are threatening the frog's survival. In the meantime, a conservation group said it would push for immediate protective measures.

"We'll probably seek some sort of buffer zone around the habitat" to shield it from pesticides, said attorney Brent Plater of the Center for Biological Diversity. He said the EPA and pesticide manufacturers should also be required to inform those who use pesticides of the need for caution around sensitive areas.

Plater said longer-term restrictions should include equipment to prevent pesticide drift and, for the most harmful pesticides, an EPA order to change their chemical composition.

"The California red-legged frog has been intertwined with our state's identity for over a century, and it has been integral to our literature, our gold rush, and even our cuisine," Plater said. "We owe it to future generations of Californians to ensure that toxic chemicals do not destroy this wonderful creature or the special places it calls home."

EPA spokeswoman Eryn Witcher said the agency disagreed with the ruling.

"We believe we complied with the Endangered Species Act and are working with the Department of Justice to explore our options," she said in a statement. The EPA could ask the Ninth U.S. Circuit Court of Appeals to overrule White's decision.

The red-legged frog has dwindled to 10 percent of its original population, largely the victim of agricultural development that has destroyed its habitat.

Sites designated by the government in 2001 as critical habitat for the frog included several Bay Area locations — wetlands and waterways in Marin, Sonoma, Napa and Solano counties, and coastal watersheds in San Mateo and Santa Cruz counties — as well as portions of the Sierra foothills and coast range.

In the suit, filed in April 2002, the Center for Biological Diversity group accused the EPA of ignoring studies linking pesticides with the decline of amphibians.

White, an appointee of President Bush, said the conservation group “has submitted significant scientific evidence demonstrating potential adverse effects to the frog” by 47 pesticides, which have been found in the creature’s habitat. An expert’s report suggested that the other 19 chemicals named in the suit, said to be present in the air or water though not necessarily in the frog’s habitat, may be contributing to the species’ decline, the judge said.