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ENDANGERED SPECIES: New listings wait as Obama admin charts new course (Greenwire, 11/24/2009)

Allison Winter, E&E reporter

The Obama administration is lagging behind the pace set by its predecessor for listing endangered species, and some environmentalists are not happy.

"The administration is carrying on the Bush-era legacy of failing to grant badly needed protections to animals and plants on the brink," said Nicole Rosmarino of WildEarth Guardians. "We need a dramatic shift in the administration's behavior in order to protect our nation's rich natural diversity."

Said Noah Greenwald of the Center for Biological Diversity: "Only two listings shows they have not correctly shifted the agency's priorities to correct the foot-dragging of the Bush administration."

So far, President Obama's Fish and Wildlife Service has offered protection to two U.S. species, both plants, out of nearly 250 on Endangered Species Act's "candidates" list. Candidate species have been deemed worthy of protection by federal biologists but are kept from formal listing because of other priorities for the department.

The service also finalized listings for three foreign bird species and a segment of the Atlantic salmon population and edited the listings of two plants and two species of salamander that were previously listed as single species.

Altogether, the new administration's total listings this year lag behind George W. Bush's administration, which finalized protections for 11 species in its first year. The Bush-era listings tapered off in subsequent years for an average annual listing rate of just under eight species per year -- far below the average 65 species listed each year under President Clinton and 58 under President George H.W. Bush.

Fish and Wildlife officials say they are handcuffed by litigation on species issues and a lack of money for listings. They promise to dramatically pick up the pace next year.

Spokeswoman Valerie Fellows said the service has enough money to protect 61 domestic species from the candidate list next year and intends to fund listing determinations for 60 species and final listings for another 50 species.

"This is substantial progress in the endangered species candidate and listing programs and is based on available resources," Fellows said.

The administration has already laid the groundwork for some new listings. The service has proposed new protections for six domestic species and 14 foreign bird species in the past year.

During President George W. Bush's two terms, the Center for Biological Diversity filed dozens of lawsuits each year to challenge findings on endangered species, force the administration to speed up its listing process or demand habitat protections for protected species.

The group's pace of filing lawsuits has not markedly decreased over the past year, although many of the new legal complaints challenge the agency's decisions that were made during the Bush administration. During the past 11 months, the center has sued the federal government more than 20 times.

To be sure, there are also new center lawsuits over decisions by the Obama administration. For instance, the center sued the administration last month for its decision to cut in half a proposal to protect bighorn sheep habitat, and the group filed suit last week to challenge a recent decision that denied protection for the longfin smelt.

"There is no longer a clear ideological opposition to endangered species, but they have not exactly made it their priority, either," said Greenwald regarding the Obama administration.

Greenwald said the Interior Department's main focus seems to be on energy development, not wildlife conservation. Meanwhile, he said, the Obama team has been slow to fill key Interior positions like the chief of conservation and classification.

The new administration has also continued to miss legal deadlines set in the Endangered Species Act, he said. The center has taken the administration to task for missing those deadlines and making decisions the group disagrees with.

The center concedes the Obama administration has taken a different approach to some of the legal complaints. Greenwald said the Obama team seems more willing to settle lawsuits over listing deadlines and designations of critical habitat.

'Pretty dramatic changes'

Nonetheless, many environmentalists counsel patience with the new administration.

"It is still a little early," said Bob Irvin, senior vice president for conservation programs at Defenders of Wildlife. "They really have just gotten their team in place. ... The coming year will provide a much better benchmark in that regard."

Irvin added, "But no matter what the administration does -- whether it is Obama or Bush or Clinton -- they are always going to get sued by someone who is not happy with how they are carrying out their obligations."

Although the Fish and Wildlife Service's listing numbers have not risen, environmental groups say they see progress.

"I think there have been some pretty dramatic changes," said John Kostyack of the National Wildlife Federation. "We haven't seen any bad policies, and the ones that have come out have been positive."

The handling of endangered species in the Bush administration was marked by efforts to overhaul regulations at the core of the Endangered Species Act and, as noted by Interior's inspector general, political meddling in scientific decisions by Julie MacDonald, a former Interior deputy assistant secretary.

So environmentalists see progress in the Obama administration's efforts to place new focus on climate change and endangered species, its new proposals to protect the polar bear, and a move to overturn controversial rules from the Bush administration that would have eliminated a legal requirement that federal agencies undertaking a project that could affect species must consult with Fish and Wildlife Service biologists.

The Obama administration also appears to be taking a new approach to critical habitat. The Endangered Species Act mandates federal protection of critical habitat -- which is defined as an area essential for species' survival and recovery -- for almost all federally listed species.

The Bush administration almost never gave species habitat protections until forced by lawsuit. And in every designation, the administration included language that said critical habitat would provide little added benefit to listed species and should not be required.

Last month, the Obama administration proposed protecting more than 200,000 square miles in Alaska as critical habitat for the polar bear -- an area the administration said is the largest the government has ever put forward in a bid to protect an imperiled species.

Interior Assistant Secretary Tom Strickland said the designation would benefit polar bears, "since critical habitat receives an additional level of protection." By contrast, the Bush administration had repeatedly argued in court that habitat designations were wasting time and money, since species would receive similar protection just from their status as endangered or threatened.

Once critical habitat is designated, federal agencies or developers seeking federal permits for projects that affect such habitat must consult with Fish and Wildlife Service officials before undertaking activities that could harm the species or its habitat.

Regulating greenhouse gases

The Center for Biological Diversity has also expressed frustration with the Obama administration's unwillingness to use the polar bear's threatened status as grounds for regulating greenhouse gas emissions. The bear was protected because of threats to its Arctic ice habitat from global warming.

Like the Bush administration, the Obama team has said that the Endangered Species Act should not be used to regulate greenhouse gas emissions.

But while that decision may be similar to Bush's, the new administration has taken a different approach to how it describes the issues surrounding polar bears and climate change. The Bush administration argued that no link could be made between a power plant in the lower 48 states and habitat loss in the Arctic, while the current administration has simply said the Endangered Species Act is not the vehicle for such regulations.

"They are not trying to distort the science," Kostyack said. "They are just making a policy point that they would rather see federal legislation be a vehicle for it."