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Groups seek greenhouse gas protection polar bears

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ANCHORAGE, Alaska — Conservation groups that sued to list polar bears as threatened are back in court taking aim at what they say is the animals' top threat — greenhouse gas emissions that have led to rapid melting of polar bear habitat, sea ice.

The Center for Biological Diversity, Greenpeace and the Natural Resources Defense Council announced Tuesday they have challenged administrative actions by Interior Secretary Dirk Kempthorne to keep greenhouse gas regulation off the table for a polar bear recovery plan.

"The administration's attempt to create an exemption for greenhouse gas emissions, the primary threat to the polar bear, violates both logic and the law," said Kassie Siegel, climate director for the CBD and lead author of the 2005 petition to list polar bears, in a release.

A message left Tuesday with the Department of Interior in Washington, D.C., was not immediately returned.

In response to a court-ordered deadline last week, Kempthorne announced polar bears would be listed as "threatened" under the Endangered Species Act. But echoing President Bush, he said he would not allow the Endangered Species Act to be "misused" to regulate global climate change.

The U.S. Fish and Wildlife Service had not make a "causal connection" between development actions and loss of a polar bear, he said last week.

"The best scientific data available do not demonstrate significant impacts on individual polar bears from specific power plants, resource projects, government permits or other indirect effects of activities in the lower 48 states that are potentially reviewable under the 'consultation' requirements of the ESA," he said.

Kempthorne said Americans deserve an honest assessment of the costs, benefits and feasibility of reducing greenhouse gas emissions and that the discussion should not be left to "unelected regulators and judges." He also said any real solution requires action by all major economies.

In court filings late Friday that amend their original lawsuit, the conservation groups asked U.S. District Court Judge Claudia Wilken of Oakland, Calif., to reject Kempthorne's administrative actions and apply endangered species law to polar bears.

Siegel said the listing of polar bears was momentous but that they will not survive without the full protections of the law.

The law contains two key provisions for protecting listed animals.

One, Section 7, requires all federal agencies to ensure that their regulatory actions do not jeopardize the continued existence of a listed species or "result in the destruction or adverse modification" of their critical habitat.

The other, Section 9, applies to anyone from individuals to corporations. It prohibits them from the "taking" of an endangered species. Siegel said courts have routinely interpreted harm to include significant habitat degradation, and that the measure should be applied to proposed offshore oil and gas drilling in planned for polar bear habitat in the Chukchi and Beaufort seas off Alaska's coasts.

Andrew Wetzler of the National Resources Defense Council said Kempthorne's administrative orders sap both provisions.

"We are confident the rules won't survive court review and that the polar bear will be given the full protection of the Endangered Species Act that it so badly needs," he said.

The groups also claim Kempthorne should have immediately listed polar bears as endangered rather than threatened based on the scientific evidence collected in

the listing process. A species is "endangered" if it "is in danger of extinction throughout all or a significant portion of its range." "Threatened" means it's likely to become endangered within the foreseeable future.

A U.S. Geological Survey study generated in response to the listing petition predicted polar bears in Alaska could be wiped out by 2050.

Polar bears use sea ice for hunting their primary prey, ringed seals, and advocates say they have little

chance of adapting to hunting on land. Polar bears also use ice for mating and reaching denning areas. Habitat loss, projected by most climate models to accelerate, was the basis for the original listing petition.

Kempthorne's proposals for aiding polar bears included work with Canada to conserve and manage shared animals and increased research.