

ENDANGERED SPECIES: Enviros sue EPA over pesticides and polar bears (12/03/2009)

Allison Winter, E&E reporter

U.S. EPA should consider whether pesticides used on farms across the United States are harming Alaskan polar bears, according to a lawsuit environmentalists filed today in federal court.

The Center for Biological Diversity's lawsuit seeks biological consultations on 14 pesticides, some of which are commonly used on U.S. farms. The group filed the suit today in U.S. District Court for the Western District of Washington in Seattle.

The group -- which has filed several other lawsuits seeking more stringent protections for the polar bear -- had sent a notice of intent to sue EPA and Interior Department officials last summer, the first formal step in the lawsuit process ([E&ENews PM](#), July 7). Staff attorney Rebecca Noblin said the group received no response from the agency.

The Interior Department listed the polar bear as "threatened" last year due to threats to its Arctic habitat. While the listing focused on the effects of climate change on the species, the Fish and Wildlife Service identified contaminants as one of the additional stressors on polar bears.

The environmental group has been successful in previous lawsuits on pesticides. EPA agreed in June to conduct consultations on dozens of chemicals and impose new use restrictions to protect 11 endangered species in California.

But the polar bear complaint takes a broader look: The group wants the government to consider how pesticides all over the country could affect polar bears.

Pesticides used in the United States can travel to the Arctic locally or over long-range transport through the water or air. The chemicals can accumulate in the tissues of polar bears, potentially affecting the species's health and reproduction, according to the legal complaint.

"The United States has lagged far behind the international community in taking action to protect the species and people of the Arctic from pesticides and other contaminants," Noblin said. "But the listing of the polar bear under the Endangered Species Act gives the EPA both the opportunity and the obligation to meaningfully address the poisoning of the Arctic."

The Endangered Species Act prohibits anyone from harming or harassing a listed species and requires wildlife biologists to consult over federal permits that could jeopardize a listed species.

A controversial "4(d)" rule that accompanied the polar bear's listing exempted any activities outside of Alaska from being considered under the "take" provisions -- barring environmentalists from suing power plants or pesticide companies for their potential harm to the bear. But ESA and federal insecticide regulations still give room for environmental groups to press federal agencies to at least study the potential effects of the chemicals on the polar bear.

If EPA conducted consultations with Fish and Wildlife Service biologists and found that pesticides pose a threat to the bear, it could potentially lead to further litigation or more stringent restrictions on chemicals.