

Wenatchee World (WA)

Gray squirrels lose out Judge upholds denial of federal protection

By Michelle McNeil, World staff writer

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[Source document: 9th U.S. Court of Appeals decision](#)

CHELAN Environmentalists trying to save the state's dwindling population of Western gray squirrels including some near Lake Chelan may be running out of options.

A 9th U.S. Circuit Court of Appeals judge on Friday upheld a 2003 U.S. Fish and Wildlife Service decision denying protection to the tiny Washington population of the squirrels.

Judge Alfred T. Goodwin ruled that the federal agency was not acting arbitrarily when it decided that the Washington squirrels were not genetically unique enough to protect as a separate subspecies of gray squirrels found across the West.

"We're obviously disappointed by the decision," said Noah Greenwald, a conservation biologist for the Center for Biologist Diversity in Portland, Ore., which filed suit against the U.S. Fish and Wildlife Service.

"This is just another example of the Bush Administration's agenda to not protect species under the Endangered Species Act," he said. "The administration is willing to let species go extinct in portions of their habitat."

Fewer than 300 of the bushy-tailed squirrels are thought to be left in Washington in three isolated groups. One is found on the north shore of Lake Chelan between Manson and the Methow Valley. The others are in Thurston and Pierce counties, and Yakima and Klickitat counties.

The Fish and Wildlife Service began studying the squirrels in Washington for possible protection in 2001 after receiving a petition from environmentalists. The agency initially recommended listing them as endangered, but ultimately decided not to list them.

The agency acknowledged that the state's population may be headed for extinction, but that it would not impact the survival of the larger population throughout the West. The squirrels' overall numbers are estimated at 18 million.

Environmentalists sued the agency in 2003, but lost in U.S. District Court a year later. They appealed that decision to the 9th Circuit Court of Appeals.

In Goodwin's ruling, he noted that genetic testing done on the gray squirrels in Washington found that they are not significantly different than those found in Oregon and California.

Greenwald said his organization could, but probably won't, ask the full appellate court review Goodwin's decision. "We really hope the state will step in and do what they can for these squirrels," he said. "But the state lacks the jurisdiction to protect habitat, which is really the

strength of the Endangered Species Act."

The state Department of Fish and Wildlife released a plan last year for protecting the squirrels that includes improving their known habitat, importing some from other areas and capturing squirrels and treating them for mange.

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