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Suit accuses EPA of ignoring harmful pesticides

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SAN FRANCISCO—A federal judge is considering whether to dismiss a sweeping lawsuit claiming the U.S. Environmental Protection Agency allowed hundreds of pesticides to be used despite evidence of harmful effects on more than 200 endangered and threatened species.

The Center for Biological Diversity and Pesticide Action Network North America allege the EPA has allowed the pesticide use without required consultations with federal agencies to study the impacts.

The groups want the court to order the EPA to consult with wildlife experts on the use of 384 pesticides to ensure harmful chemicals aren't sprayed in the habitats of species that include Florida panthers, California condors, piping plovers and Alabama sturgeon.

“Those agencies can make suggestions on how to use the

pesticides in a way that won't harm endangered species,” said Collette Adkins Giese, an attorney for the center.

Magistrate Judge Joseph Spero heard arguments on Friday on motions by the EPA and pesticide industry to dismiss the 2011 lawsuit.

Spero told attorneys he was initially inclined to grant the EPA's dismissal motion. But after hearing arguments from both sides, the judge said his ruling would not be issued anytime soon, Giese said.

Under federal law, all pesticides sold or distributed in the U.S. must be registered with the EPA. The agency approves a pesticide for use if it meets a series of criteria that include not generally causing unreasonable adverse effects on the environment.

The agency said it looks at risks to birds, fish, invertebrates, mammals and plants in determining whether a pesticide may be licensed for use in the U.S.

EPA spokesman David Yogi said the agency doesn't comment on active litigation.

In their dismissal motion, EPA attorneys argued that the plaintiffs failed to show a causal link between EPA actions and harm to endangered species. The federal agency also said it already conducts myriad tests on pesticides to ensure safety.

“EPA reviewed supporting scientific studies, completed human health and ecological risk assessments, and developed risk mitigation measures as needed using current science, through a transparent process,” the agency's lawyers wrote.

The plaintiffs countered that studies by the U.S. Fish and Wildlife Service and the EPA, as well as peer-reviewed scientific studies, show the pesticides at issue have harmed endangered species.

“We're trying to make sure the EPA does its legal and moral duty to make sure harmful chemicals aren't sprayed in the same places where these

vulnerable wild animals are trying to survive,” said Jeff Miller, a spokesman for the Center for Biological Diversity.

After the suit was filed, the EPA and two federal wildlife agencies requested that the National Academy of Sciences National Research Council examine the agencies’ responsibilities under the Endangered Species Act, according to the center. The report is expected to be released later this month.