

Court upholds federal plan to protect vast polar bear habitat in Alaska

Appeals court rules designation of area larger than California not arbitrary
Alaska senator 'enraged' by move likely to forestall potential oil drilling



A polar bear dries off after taking a swim in the Chukchi Sea in Alaska. Conservationists say polar bears' 'habitat is melting from beneath their feet'. Photograph: Brian Battaile/AP

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A federal government plan to protect a vast area of the US Arctic as habitat for polar bears has been upheld by an appeals court, overturning a previous victory by the state of Alaska and fossil fuel lobbyists against the designation.

The US court of appeals for the ninth circuit reversed a lower-court decision that the US Fish and Wildlife Service's protection of 187,000 square miles of Alaska's northern coast – an area larger than California – was too extensive and arbitrary.

The verdict has been hailed by conservationists as vital for the survival of a species suffering because "their habitat is melting from beneath their feet". Scientists have forecast that the world's polar bear population will slump by a third by 2050, primarily due to global warming.

The FWS's conservation plan involves safeguarding a mostly offshore area of Alaska's North Slope for polar bears, which require sea ice for hunting, breeding and migrating. Shrinking ice mass in the Arctic has meant that in 2008, the polar bear became the first species deemed threatened under the Endangered Species Act for climate change reasons.

But the state of Alaska, the Alaska Oil and Gas Association and a coalition of Alaskan indigenous groups successfully sued in 2013, claiming that the federal plan was an over-reach, not based on solid science and risked stymying the state's oil production industry.

The FWS admitted it had limited data on the denning habits of polar bears in the region but that it knew that the animals travelled up to 50 miles inland. Environmental groups argued in court in support of the government that if there was any uncertainty over data, the law requires decisions that err on the side of protecting threatened species.

The three-judge appeals panel has supported this position, stating that the "FWS's designation of polar bear habitat was not arbitrary, capricious or otherwise in contravention of applicable law." The judges ruled that the federal agency did take into account all economic and other factors before zoning off the polar bear habitat in 2010.

It is expected the ruling will make it extremely difficult for a major off-shore oil drilling project in the critical habitat to gain federal approval. In September, Shell abandoned controversial plans to drill in the Alaskan Arctic following a failed \$7bn hunt for oil.

The federal government is still set to allow oil companies to search for oil in parts of the Arctic Ocean, however.



Climate change is 'single biggest threat' to polar bear survival

Meanwhile, native communities will still be able to use the protected area for subsistence activities.

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"This is a critical victory for polar bears at a time when there's huge momentum on fighting climate change," said Kassie Siegel, an attorney at the Center for Biological Diversity.

"The ruling strengthens the endangered species act and affirms the commonsense idea that you can't protect imperiled animals without protecting the places they live."

But Lisa Murkowski, a Republican senator for Alaska, said she was "enraged" by the appeals court decision.

"This never should have happened in the first place. It is an abuse of the well-intentioned Endangered Species

Act that will result in serious consequences for Alaska's already-struggling economy," she said.

"The most up-to date-research and traditional knowledge indicate that polar bear numbers are strong and healthy across Alaska's Arctic. It is clear once again that decision makers outside of Alaska are overreaching and do not understand the impact this will have on those who live, work and raise families in the Arctic."