

## Lawsuit Initiated to Protect Hundreds of Endangered Species from Pesticide Impacts - why isn't this happening in Australia too?

January 28, 2010

San Francisco - The **Center for Biological Diversity** today filed notice of intent to sue the U.S. **Environmental Protection Agency** for failing to adequately evaluate and regulate nearly 400 pesticides harmful to hundreds of endangered species throughout the nation, which also threaten human health. The EPA has violated the US *Endangered Species Act* by failing to consult with wildlife regulatory agencies about the impacts of pesticides on hundreds of protected species that are threatened by pesticide use. The agency has also violated the US *Migratory Bird Treaty Act* by registering pesticides that are known to kill and harm migratory birds.

"It's time for the Environmental Protection Agency to finally reform pesticide use to protect both wildlife and people," said Jeff Miller, a conservation advocate with the **Center for Biological Diversity**.

"Many endangered species most affected by toxic pesticides are already struggling to cope with habitat loss and rapid climate changes. For too long this agency's oversight has been abysmal, allowing the pesticide industry to unleash a virtual plague of toxic chemicals into our environment."

More than a billion pounds of pesticides are used each year in the United States, and the **Environmental Protection Agency** has registered more than 18,000 different pesticides for use. Extensive scientific studies have shown that pesticide contamination is widespread and pervasive in groundwater, drinking water, and aquatic habitat for fish and wildlife throughout the country. Through pesticide drift and runoff, pesticides often travel far from the areas where they're applied and into sensitive wildlife habitats.

Some contaminated waterways are regularly subjected to toxic pulses of combinations of pesticides deadly to fish. Pesticides have played a major role in the collapse of many native fish populations and are a leading cause of the loss of native amphibians.

Today's notice letter references 887 endangered and threatened species that may be hurt by pesticides; some examples include the Florida panther, coho salmon, California condor, Everglade snail kite, northern Aplomado falcon, mountain yellow-legged frog, California tiger salamander, arroyo toad, Indiana bat, and green sturgeon. Thousands of non-target animals such as mountain lions, bobcats, hawks, and owls are killed or harmed each year by poisoned baits approved by the EPA, as are endangered species such as the San Joaquin kit fox, Utah prairie dog, giant kangaroo rat, and black-footed ferret. Application of pesticides such as **carbofuran** to crops can result in as many as 17 bird kills for every five acres treated.

"Millions of pounds of toxic and poisonous chemicals, including known carcinogens and endocrine

disruptors, find their way into our waterways each year, causing significant and unnecessary threats to endangered wildlife and to human health," said Miller.

"The **Environmental Protection Agency** needs to analyze the effects of pesticides across the board on hundreds of imperilled species."

Numerous pesticides act as endocrine disruptors, chemicals that alter the structure or function of the body's endocrine system, which uses hormones to regulate growth, metabolism, and tissue function. Endocrine disruptors interfere with natural hormone functions, damaging reproductive function and offspring, and cause developmental, neurological, and immune problems in wildlife and humans. Pesticides have caused sexual deformities such as intersex fish (with male and female reproductive parts) that cannot reproduce, and the herbicide, **atrazine** chemically castrates male frogs at extremely low concentrations.

In 2004 the Center published *Silent Spring Revisited: Pesticide Use and Endangered Species*, detailing the **Environmental Protection Agency's** dismal record in protecting endangered species from pesticides. The Center's Pesticides Reduction Campaign has so far forced the **Environmental Protection Agency** to begin evaluating the harmful effects of scores of pesticides on a dozen endangered species in California.

## **Regulatory Background**

The **EPA** is required by the US *Endangered Species Act* to consult with the U.S. **Fish and Wildlife Service** and **National Marine Fisheries Service** over registration, re-registration, and approved uses of pesticides that may endanger listed species or adversely affect their designated critical habitat. Formal consultations are designed to ensure that the agency avoids authorizing pesticide uses that jeopardize endangered species. For decades the agency has consistently failed to evaluate or adequately regulate pesticides it registers that are harmful to the species.

A series of lawsuits by the Center and other conservation groups have forced consultations with the **Fish and Wildlife Service** on the impacts of scores of pesticides on some endangered species, primarily in California, and interim restrictions on use of these pesticides in and adjacent to endangered species habitats. In 2006 the **EPA** agreed to interim restrictions on applying 66 pesticides throughout California and began analyzing their effects on the California red-legged frog. In 2010 the agency proposed a settlement agreement to formally evaluate the harmful effects of 75 pesticides that may affect 11 imperiled San Francisco Bay Area species.

At the completion of consultation, the federal wildlife agency issues a biological opinion that determines if the agency action is likely to jeopardize listed species. The opinion may specify reasonable and prudent alternatives that will avoid jeopardy and may also suggest modifications to avoid adverse effects. The **EPA** has failed to implement previous biological opinions on pesticides to meet "no jeopardy" obligations.

The **EPA** has violated Section 2 of the US *Endangered Species Act*, which requires that federal

agencies "seek to conserve endangered species and threatened species," and Section 7 of the Act, which requires it to engage in consultation with the federal wildlife agencies Fish and Wildlife Service and National Marine Fisheries Service to ensure that pesticide registrations are not likely to jeopardize the continued existence of any endangered or threatened species or result in the adverse modification of designated critical habitat. The agency has failed to enter into consultation regarding the vast majority of pesticides and to re-consult on species and pesticides previously addressed in consultations for which there is new information. It has also violated Section 9 of the Act through registration of pesticide uses that have resulted in the illegal "take" of listed species. The agency is violating the *US Migratory Bird Treaty Act* by registering pesticide uses that cause take of migratory birds.

The **Center for Biological Diversity** is a national, non-profit conservation organization with more than 255,000 members and online activists dedicated to the protection of endangered species and wild places.