



EARTHJUSTICE

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Science and the Law:

Protections for Endangered Species Depend on Both

The Endangered Species Act requires the U.S. Fish and Wildlife Service and National Marine Fisheries Service to use the best science available in developing balanced solutions to prevent the loss of endangered and threatened plants and wildlife. Unfortunately, the Bush administration and some members of Congress are working hand in hand with industry to distort and suppress science to fit corporate wish lists. Based on the Union of Concerned Scientists and Public Employees for Environmental Responsibility (PEER) survey of scientists working within the U.S. Fish and Wildlife Service, more than half of the respondents reported cases where “commercial interests have inappropriately induced the reversal or withdrawal of scientific conclusions through political intervention.” Tainted science undermines the law, and in turn, moves endangered species closer to extinction.

Sage Grouse

The greater sage grouse was denied protection under the Endangered Species Act after Julie MacDonald, an Interior Department political appointee without a wildlife biology background criticized a survey of the known science. According to the December 5, 2004 New York Times, “[t]he consistent thrust of Ms. MacDonald's critique was to dismiss the methodology behind studies that indicated significant declines in grouse population or habitat, to denigrate many studies as mere "opinion" and to seek inclusion of industry comments that she found compelling. MacDonald went so far as to suggest that the sage grouse is not dependent upon sagebrush, even though the link between the two is undisputed among scientists.

Delta Smelt

MacDonald also stepped in to undermine a court ordered status report on the Delta Smelt. The Farm Bureau hoped that the status review would find that the small fish had recovered sufficiently to allow it to be removed from the endangered species list, and therefore allow more water to be removed from the Sacramento-San Joaquin Delta for agribusiness. However, the review found otherwise.

MacDonald rebuked agency staff after reviewing a draft public statement that revealed, “delta smelt populations have not recovered and are significantly below historic levels.”

<http://www.earthjustice.org/backgroundunder/display.html?ID=107>

Marbled Murrelet

The Bush administration ignored a March 2004 study commissioned by the U.S. Fish and Wildlife Service that found the marbled murrelet, a threatened seabird, will likely disappear within the next century. The \$348,916 survey consulted sixteen international scientists and reviewed more than 10 years worth of research on the marbled murrelet. Rather than continue to protect the murrelet as warranted by the findings, the administration took the first steps in September 2004 to remove the protections for the seabird, a move that may lead to more logging in ancient forests where the species resides. Several of the lead review team scientists subsequently issued a statement to the Oregonian and Associated Press defending their findings.

<http://www.earthjustice.org/background/display.html?yes&ID=98>

Klamath Salmon

One of the most dramatic examples of politics trumping science occurred in 2002 on the Klamath River in Oregon when a fish kill took over 65,000 chinook and coho. Had the Bush administration acknowledged National Marine Fisheries scientists' findings regarding the amount of water needed to protect endangered salmon, this tragedy could have been avoided. The low water flows that killed the fish were a result of water diversions that benefited agribusiness. Unfortunately, communities that rely on salmon continue to feel repercussions of the 2002 fish kill. Fishing seasons are based on counts of returning two-year-old salmon and, not surprisingly, the 2004 count was quite low. Officials at the Pacific Fisheries Management Council are likely to severely curtail fishing this season as a result. <http://www.earthjustice.org/urgent/display.html?ID=70>

Florida Panther

The Bush administration knowingly used flawed science on the endangered Florida panther to justify decreased and inadequate protections for this magnificent cat. In May 2004, Andrew Eller, Jr., a Fish and Wildlife Service biologist became disgusted with the agency's willingness to promote invalid, faulty science and filed a claim under the Data Quality Act with Public Employees for Environmental Responsibility. On March 21, 2005, the administration finally admitted to using flawed science in implementing Endangered Species Act protections for the cat. According to Eller, the agency used assessments of panther populations that counted juvenile, aged, and ill animals among breeding adults. Additionally, requirements for panther habitat were based on daytime activity patterns even though the panther is known to be more active at night. Eller had worked on panther recovery for 10 years with the Fish and Wildlife Service and was fired by the Service days after the November 2004 election. Bogus science has been giving cover to mega-developers hoping to pounce on panther habitat.

http://www.peer.org/news/news_id.php?row_id=498