Farm groups seek to save Chlorpyrifos

By DON JENKINS
Capital Press

Farm groups and pesticide makers are asking the Environmental Protection Agency to reconsider its decision to ban chlorpyrifos, a chemical the agriculture industry says it still needs for crop protection.

The Oregon and Washington Farm Bureaus are among 82 organizations that signed comments to the EPA arguing to delay the ban until the agency responds to their concerns.

"I don't believe that this administration will change its mind, but we can't give up hope that science will prevail over politics," Washington Farm Bureau CEO John Stuhlmiller said.

The ban, announced in August, takes effect Feb. 28 and applies to all uses for growing food crops. EPA will review and consider all objections and will respond to the objections, an agency spokesman said in an email.

Labor and environmental groups hailed the ban. They claimed chlorpyrifos was a danger to the brains of children and unborn children.

The timing of the ban was dictated by the 9th U.S. Circuit Court of Appeals. It gave anti-pesticide groups the outcome they sought by petitioning to prohibit chlorpyrifos in 2007.

The Obama administration tentatively planned to ban chlorpyrifos, but postponed the final decision until after President Obama's second term ended.

A Washington Farm Bureau delegation brought up chlorpyrifos at a meeting in 2017 with Trump officials in Washington, D.C. Several months later, the Trump EPA rejected the petition.

"We won the day and got a complete victory and now it's being undone," Stuhlmiller said.

Ban advocates continued to press their case in the 9th circuit. A three-judge panel in April ordered the Biden EPA to ban the chemical or modify its uses.

The EPA revoked all tolerances for chlorpyrifos residue on food, while continuing to let it be used for non-food purposes, such as on golf courses.

Food residue wasn't a health hazard, according to the EPA, but combined with other potential exposures, such as drinking water, the agency said it wasn't certain chlorpyrifos met health standards.

Farm groups and the pesticide industry argue the ban goes too far, ignoring a 2020 finding by the EPA that chlorpyrifos could be used safely on at least 11 crops in some states.

The list included apples, alfalfa, strawberries and sugar beets grown in the Northwest. The other crops were asparagus and tart cherries in Michigan, wheat in the Plains, and citrus, cotton, peaches and soybeans.

The ban also will apply to residue on imported food. Farm groups warn the ban will invite retaliation against U.S. agricultural exports.

Other groups signing the letter to the EPA include the California Farm Bureau, Idaho-Oregon Fruit and Vegetable Association, Washington Friends of Farms and Forests, and the Washington Potato and Onion Association.

Judge refuses to block delay of spotted owl's critical habitat reduction

By MATEUSZ PERKOWSKI
Capital Press

A federal judge has allowed the U.S. Fish and Wildlife Service to postpone a 3.5 million-acre reduction to the spotted owl's critical habitat.

Shortly before leaving office early this year, the Trump administration decreased the threatened species' critical habitat designation from 9.6 million acres to 6.1 million acres.

However, the Biden administration has delayed that decision's effect until Dec. 15 while issuing a revised proposal that would only cut about 200,000 acres of critical habitat.

Groups representing the timber industry and affected counties filed a lawsuit arguing the postponed critical habitat reduction was unlawful for failing to follow notice-and-comment procedures.

The plaintiffs also requested a preliminary injunction against the delay but U.S. District Judge Richard Leon in Washington, D.C., has now determined they don't meet the criteria for such an order.

Such an injunction would require the plaintiffs to show they'd suffer "irreparable harm" from the delay, but their attempt "falls short of the bar for the extraordinary relief they seek," the judge said.

Delaying the critical habitat reduction only causes "general harms," such as lost timber sales and tax revenues, which stem from an expansion to the critical habitat nearly a decade ago, he said.

The timber plaintiffs haven't shown a "specific and concrete risk," such as the "imminent closure of mills or the collapse of county finances due to the delays," Leon said.

Also, an immediate reduction in the critical habitat wouldn't necessarily prevent such injuries because actual timber harvest projects on that acreage "would require additional planning and approval," he said.

Though the preliminary injunction was denied, that doesn't signal the judge will disagree that the agency's delay violated the law, said Sara Ghafouri, attorney for the American Forest Resource Council timber group.

"He only addressed irreparable harm," she said.

The 3.5 million acres of critical habitat in question hinders timber management and fuels reduction projects because the Fish and Wildlife Service must "consult" on the impacts to spotted owls — even if they don't occupy the area, Ghafouri said.

"It has pretty much put this chunk of land off-limits to important management," she said.

The plaintiffs hope the judge will determine the agency didn't follow the law by postponing the critical habitat reduction, Ghafouri said.

ODFW shoots three more wolves from E. Oregon pack after preying on livestock

By GEORGE PLAVEN
Capital Press

ODFW
The state Department of Fish and Wildlife has culled three wolves from the Lookout Mountain pack in northeast Oregon.

BAKER CITY, Ore. — State wildlife officials have killed three more wolves from the Lookout Mountain pack in northeast Oregon following repeated attacks on livestock.

The Oregon Department of Fish and Wildlife announced it shot one yearling and two 6-month-old juvenile wolves from a helicopter on Oct. 20. A kill permit for the Lookout Mountain pack was authorized by the agency in September.

ODFW has now killed eight members of the pack for preying on livestock 12 times since July. The most recent depredation was confirmed Oct. 16 near Manning Creek in Baker County, where an adjacent landowner reported finding a dead, 400-pound calf.

Under the Oregon Wolf Conservation and Management Plan, wolves east of highways 395, 78 and 95 may be killed if they have two confirmed depredations in a nine-month period.

Ranchers must also be using non-lethal deterrents and remove all attractants — such as carcasses and bone piles — to qualify for lethal control of wolves.

ODFW initially approved a kill permit for the Lookout Mountain pack in July after confirming four depredations in 14 days. The agency shot two wolf pups from a helicopter on Aug. 1, drawing criticism from wolf advocates.

Oregon's minimum known wolf population was 173 as of the most recent count at the end of 2020.

Depredations from the Lookout Mountain pack stopped for 18 days after the pups were killed before starting again, according to ODFW. The agency renewed its kill permit on Sept. 16, this time allowing for the removal of up to six wolves.

Roblyn Brown, ODFW wolf coordinator, said the pack had shifted its behavior to targeting livestock as opposed to natural prey. This was despite ranchers installing fladry on fences, checking their animals nightly and hazing wolves near their calving and winter pastures.

Brown said local ranchers have gone above and beyond what they were required to do under the wolf plan, at great personal cost in time, energy, fuel and other expenses.

ODFW killed three other wolves, including the alpha male, shortly after the permit was reauthorized. With the latest three wolves killed by the agency, it means the lethal control permit is no longer in effect.

"We've seen good results from incremental removal in the past, when removing a few members of the pack reduced or even stopped further depredations," Brown said. "It's disappointing that was not the case this time."

As many as three wolves still remain in the Lookout Mountain pack, including the breeding female and up to two juveniles.

Amaroq Weiss, senior wolf advocate with the Center for Biological Diversity, said the agency's decision to kill wolves might actually make things worse for both the pack and ranchers.

"(ODFW) killed the mate of the pack's mother. Forced to hunt alone to feed her two remaining pups, it won't be a surprise if livestock conflicts continue since livestock are easier to kill for a wolf who has lost her pack mates," Weiss said.

Judge sets hearing on claim against Easterday estate

By DON JENKINS
Capital Press

A federal judge in Yakima, Wash., said Oct. 20 he needs more testimony to decide whether cattleman Cody Easterday understood the risks of a $50 million loan he took out a year before filing for bankruptcy and pleading guilty to fraud.

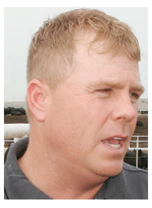
Prudential Insurance Co. claims that by defaulting on the loan, Easterday triggered a higher interest rate and penalty totaling more than $9 million. U.S. Bankruptcy Court Judge Whitman Holt observed that Prudential in written arguments repeatedly refers to Easterday and family members as "sophisticated" borrowers.

Holt said he wasn't ready to agree. "Certainly, people can be wealthy and good at what they do without necessarily being 'sophisticated' in the sense that I think Prudential hopes to use it," he said.

"People can be good at farming, but not good at reading a forward curve on an interest-rate projection," he said.

Easterday, 50, bought and fed cattle for the Tyson Fresh Meats plant in Eastern Washington. He bilked the Fortune 500 company out of $233 million over several years by billing for 200,000 head of cattle that didn't exist.

Federal prosecutors say Easterday used much of the money to cover losses trading in cattle futures.



Cody Easterday

He is scheduled to be sentenced in January for wire fraud and has agreed to make restitution.

Easterday has several other large creditors, including Prudential. Prudential recouped the $50 million with interest when several Easterday farms in Benton County were sold last summer at a bankruptcy auction.

Prudential, however, claims it's still owed almost $7 million because the loan was paid early and $2.1 million because the interest rate went to 12% from 3.3% when the Easterdays defaulted.

The financial company argues that the default interest rate and early payment fee are standard features of a large commercial loan.

Lawyers representing the bankrupt Easterday farms and ranches say Prudential is being unreasonable. The loan terms are unconscionable and the debt unenforceable under Washington law, the attorneys argue. If Prudential wins, the $9 million payment will leave less for other creditors, they say.

One of those lawyers, Richard Pachulski, told Holt that negotiations with the creditors are ongoing. Some want more money than is being offered, he said.

"I'm hoping to convince them that's not realistic," he said. "We have only so big a pie and what everybody would like adds up to about 1.6 times that pie."