

# Judge: Bears near US-Canada border merit endangered status

August 23 2017, by Matt Volz

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This June 20, 2014 file photo taken by an automatic trail camera provided by the U.S. Fish and Wildlife Service shows an adult female grizzly bear in the Cabinet Mountains in northwest Montana near Canada. A federal judge ruled Monday, Aug. 21, 2017 that the small population of grizzly bears in Montana and Idaho near the Canadian border can be considered endangered even if they are not on the brink of extinction. U.S. District Judge Dana Christensen's order reversed the 2014 re-classification by U.S. wildlife officials for 40 to 50 bears of the Cabinet-Yaak bear population under the federal Endangered Species Act. (U.S. Fish and Wildlife Service via AP, File)

Animals and plants can be considered endangered even if they are not on the brink of extinction, a judge ruled in overturning the U.S. government's re-classification of a small population of grizzly bears living in the forests of Montana and Idaho near the Canada border.

Tuesday's ruling by U.S. District Judge Dana Christensen said that the U.S. Fish and Wildlife Service is prohibited from narrowing the definition an endangered species without explaining why it wants to make the policy change.

The federal Endangered Species Act defines an endangered species as one that is "in danger of extinction throughout all or a significant portion of its range."

In 2014, the Fish and Wildlife Service interpreted that to mean that 40 to 50 Cabinet-Yaak grizzly bears living in the mountainous, remote part of Montana and Idaho are not endangered because they are not "on the brink of extinction."

The federal agency used that interpretation to upgrade the status of Cabinet-Yaak grizzly bears to "threatened" after the bears spent decades on a waiting list to be classified as "endangered," prompting a lawsuit from the conservation group Alliance for the Wild Rockies.

Christensen ruled that the government effectively changed its policy without explaining it or seeking public input. He reinstated the Cabinet-Yaak bears' status as warranting classification as an endangered species—essentially putting them back on the waiting list.

The federal agency first used the "brink of extinction" interpretation in a memo to explain its decision not to list the polar bear as an endangered species in 2008.

The judge said that memo was only supposed to apply to polar bears and not set a new policy for defining endangered species, but that the agency tried to apply it to the Cabinet-Yaak bears.

In future listings of any animals or plants under the Endangered Species Act, the judge said, the Fish and Wildlife Service must prove that the federal law allows the "brink of extinction" interpretation and provide an explanation of why that interpretation is needed.

"It will apply to all other species when the FWS is considering if a species should be listed as endangered," said Mike Garrity, the executive director of the Alliance for the Wild Rockies.

A Fish and Wildlife Service spokeswoman did not immediately return a telephone message seeking comment.

The Cabinet-Yaak bears are one of six grizzly populations in the Northern Rockies from Washington state to Wyoming.

All are considered threatened, with the recent exception of about 700 grizzlies living in and around Yellowstone National Park, about 300 miles (480 kilometers) southeast of the area with portions of three national forests where the Cabinet-Yaak bears live.

The U.S. government declared Yellowstone grizzlies recovered and lifted federal protections for them last month.

The government agency ruled in 2014 that the Cabinet-Yaak population had stabilized and no longer needed to be considered as an endangered species. The agency acknowledged their numbers were still far short of the 100 bears targeted for a recovered population and still merited "threatened" status.

A "threatened" classification provides many, but not all, of the protections given to endangered species against killing or hurting them and their habitat.

Until that 2014 decision, the Fish and Wildlife Service classified Cabinet-Yaak bears as warranting endangered species status, but ruled that other troubled species had a higher priority, such as the red-crowned parrot in Texas and the Puerto Rico harlequin butterfly.

So the bears spent decades on a list with hundreds of other species waiting for their turn.

The Alliance for the Wild Rockies argued the bears are still endangered because their population is less than half of the recovery target.

The conservation group also argued that they are isolated from other bear populations and they face serious threats to their survival from human activities like mining and logging where they live.

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