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Court Rejects Trump Administration Denial of Critical Habitat Protection to Endangered Rusty Patched Bumble Bees

WASHINGTON— A federal judge on Friday rejected the U.S. Fish and Wildlife Service’s decision to refuse to designate critical habitat for highly endangered rusty patched bumble bees and ordered the Service to reconsider.

Despite the bees having been listed as an endangered species in 2017, in part due to the loss of 99% of their native grasslands in the Northeast and upper Midwest, the Service determined in September, 2020 that designating critical habitat for them was “not prudent.” The agency claimed that lack of habitat did not limit the bees’ conservation.

Rejecting that claim, the judge held that the Service could forego designating critical habitat for the bees “only if the designation would not be beneficial for the species,” which the judge found was not supported by the record. The Trump administration decision to deny critical habitat contradicted the agency’s own findings that habitat loss and degradation have contributed to the species’ decline, according to the ruling.

“Once again, it took a lawsuit to ensure that the rusty patched bumble bee gets the protections it deserves,” said Lucas Rhoads, staff attorney at NRDC (Natural Resources Defense Council). “Our critical pollinators are disappearing, and the least we can do is protect the areas that these species call home. The court’s decision makes clear that this isn’t just a moral imperative, but a legal one. The Service now must act quickly to protect the bee’s habitat before it is too late.”

Once common in the Midwest and Northeast, the rusty patched bumble bee has suffered an 87% decline and was protected under the Endangered Species Act in 2017. In addition to habitat loss and degradation, pesticides, climate change and disease have contributed to that decline.

“I’m so glad the court saw through the Service’s cynical attempt to deny rusty patched bumble bees the critical habitat protection they so obviously need,” said Lori Ann Burd, environmental health director at the Center for Biological Diversity. “It’s time for the Service to stop dodging its duty to prevent the extinction of these gravely imperiled bees and give them habitat protection right away. If we don’t stop habitat destruction and the

use of deadly pesticides in the places where these beautiful bumble bees need most to survive, they'll keep moving toward extinction.”

“We applaud the judge’s decision,” said Tom Casey, board chair of Friends of Minnesota Scientific and Natural Areas. “Minnesota’s official ‘state bee’ requires the protection provided by critical habitat.”

The Endangered Species Act requires the Service to designate critical habitat for listed species, with few exceptions. Species without designated critical habitat are only half as likely to be moving toward recovery as species with critical habitat.

The suit was brought by NRDC (Natural Resources Defense Council), the Center for Biological Diversity, and Friends of Minnesota Scientific and Natural Areas.

Background

The rusty patched bumble bee was protected under the Endangered Species Act in January, 2017 after a petition from the Xerces Society followed by an NRDC lawsuit. The Service then failed to designate critical habitat by the statutory deadline, prompting another lawsuit by NRDC in 2019. A legal settlement with NRDC required the agency to move forward with a decision on critical habitat in summer of 2020; that decision was a denial, which prompted the current lawsuit.

The decline of the rusty patched bumble bee is part of a troubling trend of declines in many of the 4,000-plus species of native bees in the United States.

Native bees often provide more effective pollination of native plants than honeybees, which are not native to the United States. Wild pollinator declines across North America are caused by habitat loss, agricultural intensification, pesticide use, invasive species, climate change and pathogens.

About 90% of wild plants and 75% of leading global food crops depend on animal pollinators for reproduction, and the great majority of that work is done by bees.

Despite the growing evidence of declining bee populations, the rusty patched bumble bee is one of two bees in the continental United States currently protected under the Endangered Species Act. Franklin’s bumble bee was listed as endangered in 2021 but was last seen in 2006. The Service currently has before it numerous petitions to list bees including the Western, American, Southern Plains and Suckley’s bumble bees, and the solitary Mojave Poppy bee.

NRDC (Natural Resources Defense Council) is an international nonprofit environmental organization with more than 3 million members and online activists. Established in 1970, NRDC uses science, policy, law, and people power to confront the climate crisis, protect public health, and safeguard nature. NRDC has offices in New York City,

Washington, D.C., Los Angeles, San Francisco, Chicago, Bozeman, MT, Beijing and Delhi (an office of NRDC India Pvt. Ltd). Visit us at <http://www.nrdc.org> and follow us on Twitter @NRDC.

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places.

www.biologicaldiversity.org

Friends of Minnesota Scientific and Natural Areas (FMSNA) is a Minnesota non-profit, tax-exempt corporation organized to advocate for the protection, management, and perpetuation of Minnesota's Scientific and Natural Areas in an undisturbed natural state. These 160+ scientific and natural areas are the "crown jewels" of Minnesota's state land base and represent a diverse set of natural habitats containing rare and sensitive plant and animal species. FMSNA vigorously defends against actions that threaten the ecological integrity of these areas. Visit us at: www.snafriends.org