

Court rules agencies can use climate change projections to determine if a species is threatened

Alaska Oil and Gas Ass'n v. Pritzker

The Broader Issue

- If climate change can be cited as a factor to determine whether a species is threatened or endangered

The Narrow Issue

- The National Marine Fisheries Service (NMFS) used climate change models to conclude a subspecies of the Pacific Bearded Seal would become endangered by the year 2095 due to Arctic ice loss and should be under federal protection
- Alaska Oil and Gas Association challenged the NMFS's decision, saying the use of climate change projection models out to 2100 was speculative and did not reflect the best scientific and commercial information the Endangered Species Act (ESA) requires to determine if a species is threatened or endangered

History

- The ESA requires agencies to use the best scientific and commercial information to determine if a species is threatened or endangered
- Previous court cases have concluded agencies can use climate change data to evaluate if a species is endangered

How Did the Court Rule?

- Judge Richard Paez of the United States Court of Appeals for the Ninth Circuit concluded the NMFS was allowed to use climate change models projected out to 2100 to determine if the Pacific Bearded Seal's habitat degradation would endanger them
- This decision reversed the Alaska District Court's ruling and potentially sets a precedent for the use of longer climate change projection models to determine if species are at risk of becoming endangered or threatened

Potential next steps

- The Alaska Oil and Gas Association can appeal the decision to the Supreme Court

Sources: Timothy Cama, "Court backs seal protections on climate change grounds," *The Hill*, October 24, 2016; AP, "Court: US agency acted reasonably to protect seals," October 25, 2016; Maura Dolan, "Species may be listed as threatened based on climate change projections, court says," *Los Angeles Times*, October 24, 2016.