U.S. Fish and Wildlife Service Rejects Habitat Designation for Endangered Rusty Patch Bumble Bee

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On August 31, 2020, the U.S. Fish and Wildlife Service announced it would not designate critical habitat for the first bee species in the continental U.S. to be listed as endangered, a move that environmentalists said would worsen its chances for recovery. The U.S. Fish and Wildlife Service said it had determined the rusty patched bumblebee could survive without having specific areas managed for its protection, even though its population has plummeted 90% in the past couple of decades.

Honey bees are vital to American agriculture. Once found in 31 states and provinces from Connecticut to South Dakota, the rusty patch bumblebee now occupies only scattered areas in Illinois, Indiana, Iowa, Maine, Massachusetts, Minnesota, Ohio, Virginia, West Virginia, Wisconsin and Ontario, Canada. The Fish and Wildlife Service approved the bee's endangered listing shortly before President Barack Obama left office. The Trump administration delayed it from taking effect in early 2017 but relented after the Natural Resources Defense Council filed a lawsuit.

The Rusty Patch Bumblebee

"The designation of critical habitat plays a very specific role in species recovery and is prudent when a species' recovery is dependent on specific habitat elements it needs to survive," said Lori Nordstrom, assistant regional director for Ecological Services in the Service's Great Lakes region.

To that point, Rebecca Riley, an attorney with Natural Resources Defense Council, stated in published comments that the Fish and Wildlife Service's decision not to designate critical habitat for the rusty patch bumblebee was "shocking" and likely will bring a new legal challenge.

The rusty patched bumblebee, named for the rusty reddish patch on the backs of workers and males. relies heavily on historical grasslands and prairies that have mostly been developed, she said. "The bee has lost over 90% of its historic range," said attorney Riley. "We were expecting the Fish and Wildlife Service to do its job and protect what is left."

Recent statistics on the health of bee populations in America suggest that prudent stewardship is needed to address the grave challenges that lie ahead for farmer who rely on pollinators. According to the most recent USDA Honey Bee Colonies report, based on a survey of beekeepers who have at least five colonies, honey bee colonies lost for operations with five or more colonies from January through June of 2020, totaled 652,200 colonies, or nine percent of all the agricultural bee colonies in America.

Colony Collapse Disorder ("CCD") is a growing threat to agricultural bee populations, and it is on a step rise in the United States. According to the USDA, bee colonies reported as being lost due to CCD must have fully met four criteria:

1) Little to no build-up of dead bees in the hive or at the hive entrance
2) Rapid loss of adult honey bee population despite the presence of queen, capped brood, and food reserves
3) Absence or delayed robbing of the food reserves
4) Loss not attributable to varroa mites or nosema apis infection loads.

Based on those criteria, the USDA recently reported that honey bee colonies lost with CCD symptoms on operations with five or more colonies totaled 105,240 colonies from January through March 2020. This is a 76 percent increase from the same quarter of 2019.

From January through June of 2020, California led the nation in lost bee colonies, logging 304,000 according to the USDA. Florida was second, losing 69,000 bee colonies in the same three-month period.

A new study finds that the yields of major crops in the United States are frequently limited by a lack of pollinators. The study, published on July 29, 2020, in the journal the *Proceedings of the Royal Society B*, collected data on insect pollination and crop yield from 131 farms in the United States and Canada. At the farms, the researchers focused on seven crops: apples, highbush blueberries, sweet cherries, tart cherries, almond, watermelon and pumpkin. The study found that five of the seven crops are pollination-limited, "meaning crop production would be higher if crop flowers received more pollination," study author Rachael Winfree, an ecologist at Rutgers

University, explains in a statement. Apples, cherries and blueberries—all early spring crops—were most severely limited by the lack of pollination.

That means the fate of America's food supply is linked to the survival of domesticated honeybees. Prudent strategies for helping domesticated honeybees is critical to the long term health of America's agriculture. If federal and state agriculture policymakers fail to exercise better stewardship, the $50 billion worth of U.S. crops that are dependent on pollinators could fall into jeopardy.

For more information concerning the recent decision of the U.S. Fish and Wildlife Service, or measures to address the current challenges facing bees and agricultural pollinators in America, please contact GrayRobinson's Nationwide Food Law Group at foodlaw@gray-robinson.com or via telephone at (866) 382-5132.

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