

Polar Bear Is Made a Protected Species

By FELICITY BARRINGER

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The polar bear, whose summertime [Arctic](#) hunting grounds have been greatly reduced by a warming climate, will be placed under the protection of the Endangered Species Act, Interior Secretary [Dirk Kempthorne](#) announced on Wednesday.



Subhankar Banerjee/Associated Press

The polar bear is being stressed by melting sea ice but scientists say the species would not vanish entirely for a century or more.

But the long-delayed decision to list the bear as a threatened species may prove less of an impediment to oil and gas industries along the Alaskan coast than many environmentalists had hoped. Mr. Kempthorne also made it clear that it would be “wholly inappropriate” to use the listing as a tool to reduce greenhouse gases, as environmentalists had intended to do.

While giving the bear a few new protections — hunters may no longer import hides or other trophies from bears killed in Canada, for instance — the [Interior Department](#) added stipulations, seldom used under the act, that would allow oil and gas exploration and development to proceed in areas where the bears live, as long as the companies continue to comply with existing restrictions under the Marine Mammal Protection Act.

Mr. Kempthorne said Wednesday in Washington that the decision was driven by overwhelming scientific evidence that “sea ice is vital to polar bears’ survival,” and all available scientific models show that the rapid loss of ice will continue. The bears use sea ice as a platform to hunt seals and as a pathway to the Arctic coasts where they den. The models reflect varying assumptions about how fast the concentration of greenhouse gases in the atmosphere will increase.

In prepared remarks, the secretary, who earlier in his political life was a strong opponent of the current Endangered Species Act, added, “This has been a difficult decision.” He

continued, “But in light of the scientific record and the restraints of the inflexible law that guides me,” he made “the only decision I could make.”

The Center for Biological Diversity, [Greenpeace](#) and the [Natural Resources Defense Council](#) filed suit in 2005 to force a listing of the polar bear. The center, based in Arizona, has been explicit about its hopes to use this — and the earlier listing of two species of coral threatened by warming seas — as a legal cudgel to attack proposed coal-fired power plants or other new sources of carbon dioxide emissions.

But in both cases, the Bush administration has parried this legal thrust, saying it had no obligation to address or try to mitigate the cause of the species’ decline — warming waters, in the case of the corals, or melting sea ice, in the case of the bears — or the greenhouse-gas emissions from cars, trucks, refineries, factories and power plants that contribute to both conditions.

On Wednesday, Mr. Kempthorne specifically ruled out that possibility, saying, “When the Endangered Species Act was adopted in 1973, I don’t think terms like ‘[climate change](#)’ were part of our vernacular.”

The act, he said, “is not the instrument that’s going to be effective” to deal with climate change.

Barton H. Thompson Jr., a law professor and director of the Woods Institute of the Environment at [Stanford University](#), said the decision reflected the administration’s view that “there is no way, if your factory emits a greenhouse gas, that we can say there is a causal connection between that emission and an iceberg melting somewhere and a polar bear falling into the ocean.”

Few natural resource decisions have been as closely watched or been the subject of such vehement disagreement within the Bush administration as this one, according to officials in the Interior Department and others familiar with the process.

After the department missed a series of deadlines, a federal judge ruled two weeks ago that the decision had to be made by Thursday.

In recent days, some officials in the Interior Department speculated that the office of Vice President [Dick Cheney](#) had tried to block the listing of the bear. People close to these officials indicated that two separate documents — one supporting the listing, and the other supporting a decision not to list the bear — had been prepared for Mr. Kempthorne.

In an interview, Mr. Kempthorne and his chief of staff, Bryan Waidmann, said they had not discussed the decision with anyone in the vice president's office, though they did not dispute that two documents had been made available for the secretary's signature this week.

"Let's say I had my options available," Mr. Kempthorne said.

The provision of the act that the Interior Department is using to lighten the regulatory burden that the listing imposes on the oil and gas industry — known as a 4(d) rule — was intended to permit flexibility in the management of threatened species, as long as the chances of conservation of the species would be enhanced, or at least not diminished.

Kassie Siegel, a lawyer for the Center for Biological Diversity, said the listing decision was an acknowledgment of "global warming's urgency" but would have little practical impact on protecting polar bears.

"The administration acknowledges the bear is in need of intensive care," Ms. Siegel said. "The listing lets the bear into the hospital, but then the 4(d) rule says the bear's insurance doesn't cover the necessary treatments."

The science on polar bears in a warming climate is nuanced, which allowed the administration to shape its decision the way it did. Over all, scientists agree that rising temperatures will reduce Arctic ice and stress polar bears, which prefer seals they hunt on the floes. But few foresee the species vanishing entirely for a century and likely longer.

There are more than 25,000 bears in the Arctic, 15,500 of which roam within Canada's territory. A scientific study issued last month by a Canadian group established to protect wildlife said that 4 of 13 bear populations would most likely decline by more than 30 percent over the next 36 years, while the others would remain stable or increase.

M. Reed Hopper of the Pacific Legal Foundation, a property-rights group based in Sacramento, called the decision to list the polar bear "unprecedented" and said his group would sue the Interior Department over the decision.

"Never before has a thriving species been listed" under the Endangered Species Act, he said, "nor should it be."

John Baird, the environment minister for Canada, said Wednesday that the government would adopt an independent scientific panel's recommendation to declare polar bears a species "of special concern," a lower designation than endangered, and he promised to take other unspecified actions.

Management of the bear populations is the responsibility of Canadian provinces and territories. The territorial government of Nunavut, which is home to upward of 15,000 polar bears, had campaigned against new United States protections for the bear, largely because of worries that the lucrative local bear hunts by residents of the United States would stop when trophy skins could no longer be brought home.