

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR BIOLOGICAL)
DIVERSITY *et al.*,)
))
Plaintiffs,)
))
v.)
))
JIM KURTH¹ *et al.*,)
))
Federal Defendants,)
))
AMERICAN FOREST & PAPER)
ASSOCIATION *et al.*,)
))
Defendant-Intervenors.)

No. 1:15-cv-00477-EGS

DEFENDERS OF WILDLIFE,)
))
Plaintiff,)
))
v.)
))
JIM KURTH² *et al.*,)
))
Federal Defendants,)
))
AMERICAN FOREST & PAPER)
ASSOCIATION *et al.*,)
))
Defendant-Intervenors.)

No. 1:16-cv-00910-EGS
(Consolidated Case)

PROPOSED ORDER

¹ Pursuant to Fed. R. Civ. P. 25(d), Jim Kurth, Acting Director, U.S. Fish and Wildlife Service, and Ryan Zinke, Secretary, U.S. Department of the Interior, are substituted in their official capacities for Defendants Daniel M. Ashe and Sally Jewell in No. 1:15-cv-00477-EGS.

² Pursuant to Fed. R. Civ. P. 25(d), Jim Kurth, Acting Director, U.S. Fish and Wildlife Service, and Ryan Zinke, Secretary, U.S. Department of the Interior, are substituted in their official capacities for Defendants Daniel M. Ashe and Sally Jewell in No. 1:16-cv-00910-EGS.

Upon consideration of Plaintiffs' Motion for Summary Judgment on their Listing Claims, the memorandum in support, the cross-motions and oppositions thereto, reply briefs, and the administrative record, the Court hereby:

DECLARES that the final rule listing the northern long-eared bat as a threatened species under the Endangered Species Act is unlawful and REMANDS the final rule to Federal Defendants for a new decision consistent with this ruling based upon a schedule to be determined by the Court; and

DECLARES the 2014 Significant Portion of its Range Policy is unlawful and VACATES that part of the Policy that specifies that if a species is determined to be threatened throughout its range, then the agency will not undertake an analysis to determine if the species is endangered in any significant portion of its range; and

DECLARES that Federal Defendants' use of and reliance upon the Polar Bear Memo is unlawful and ORDERS Federal Defendants to cease their use and reliance upon this Memo unless and until the agency undertakes a proper process consistent with this ruling to adopt an interpretation of "in danger of extinction."

Dated: _____

HON. EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE