West Coast Salmon Enter Virginia Court

Local News

Posted by: David Haviland

Posted on : October 22, 2012 at 7:40 am

Seattle, WA - This week, a federal court in Virginia is being asked to overturn a decision that has major impacts on Northwest salmon and steelhead. In four western states, including Washington, the National Marine Fisheries Service (NMFS) recommends buffers around salmon streams of at least 500 feet where certain pesticides cannot be sprayed - and last year, a lower court agreed.

However, Dow Chemical and two other manufacturers are fighting the decision, saying buffers are not necessary and will cost them business. Steve Mashuda, an Earthjustice attorney representing wildlife advocates in the case, says the feds had discussed banning these pesticides altogether.

"But after studying it some more, they came to a compromise position, in some ways, that said as long as we're not spraying them directly next to the salmon streams and we have a no-spray buffer along those streams, they can still be used. That will minimize the amount that's making its way into the water."

Mashuda says the chemicals, called organophosphates, are lethal to the fish even in low concentrations, but are still widely used on farms. The case is being heard in Virginia because that is the closest appeals court to NMFS headquarters in Washington, D.C.

The other states where the no-spray buffers would apply around salmon streams are California, Idaho and Oregon. An interesting twist to this case is that these buffer zones are not currently being enforced. Mashuda says environmental groups have their own separate battle going with the Environmental Protection Agency about that.

"In some ways, it's slightly ironic that Dow is suing about these protections, because they're essentially right now written only on paper. They do not exist out there on the landscape. We have a whole other piece of litigation that's designed to try and get these protections implemented."

The chemicals are chlorpyrifos, malathion and diazinon, and they've also been found to have negative effects on human health. They were developed after World War II. Mashuda calls them "outmoded" in an industry that has come up with less-hazardous alternative products, as well as new farming methods, to kill pests without harming fish and wildlife.

Other parties in the appeal are Cheminova (which makes malathion) and Makhteshiam Agan (which makes diazinon). The case is in the 4th Circuit Court of Appeals.