



U.S. Department of the Interior

Remarks By Secretary Kempthorne Press Conference On Polar Bear Listing May 14, 2008

Today I am listing the polar bear as a “threatened” species under the Endangered Species Act.

I believe this decision is most consistent with the record and legal standards of the Endangered Species Act – perhaps the least flexible law Congress has ever enacted.

I am also announcing that this listing decision will be accompanied by administrative guidance and a rule that defines the scope of impact my decision will have, in order to protect the polar bear while preventing unintended harm to the society and economy of the United States.

In taking these actions, I accept the recommendations of the Assistant Secretary for Fish and Wildlife and Parks, Lyle Laverty, and the Director of the U.S. Fish and Wildlife Service, Dale Hall. I also relied upon scientific analysis from the Director of the U.S. Geological Survey, Dr. Mark Myers, and his team of scientists.

The ESA protects vulnerable animals with two classifications:

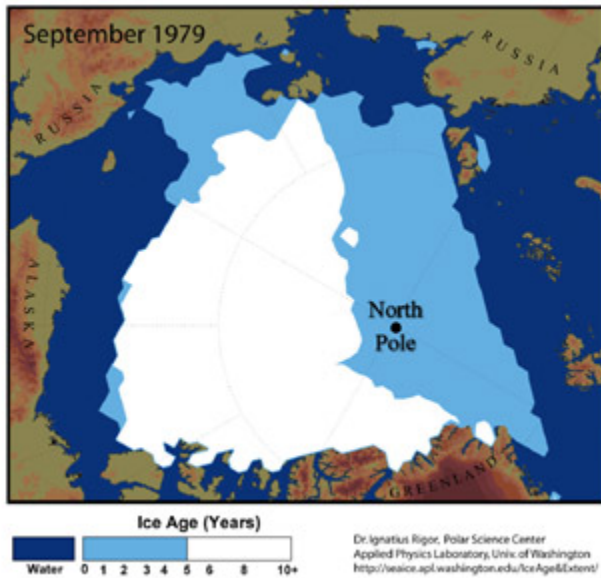
- An “endangered” species is in danger of extinction
- A “threatened” species is likely to become an endangered species in the foreseeable future.

Today’s decision is based on three findings. First, sea ice is vital to polar bear survival. Second, the polar bear’s sea-ice habitat has dramatically melted in recent decades. Third, computer models suggest sea ice is likely to further recede in the future.

Because polar bears are vulnerable to this loss of habitat, they are, in my judgment, likely to become endangered in the foreseeable future - in this case 45 years.

Four graphics tell the story. These graphics are based on actual satellite photos taken over the past three decades. [TV screens show slides].

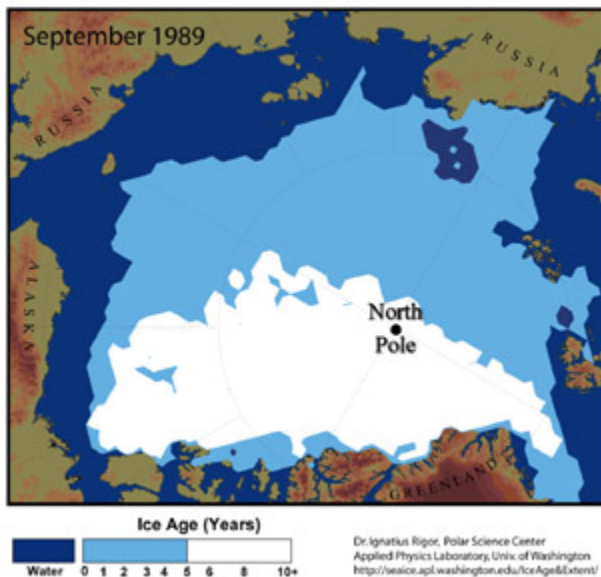
This first graphic shows the extent of arctic sea ice in September 1979.



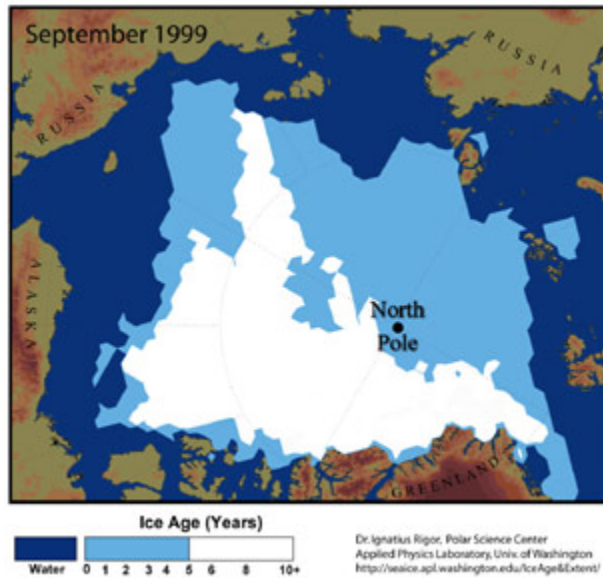
The center of the slide is the North Pole. To the top of the slide is Russia, to the left is the northern Alaska coast and Canada and Greenland make up the bottom of the page.

The white is the multi-year ice --five years and older, which provides many critical habitat functions for polar bears. The light blue includes seasonal ice that can form and melt in one year, and is used for hunting. The dark blue is open water.

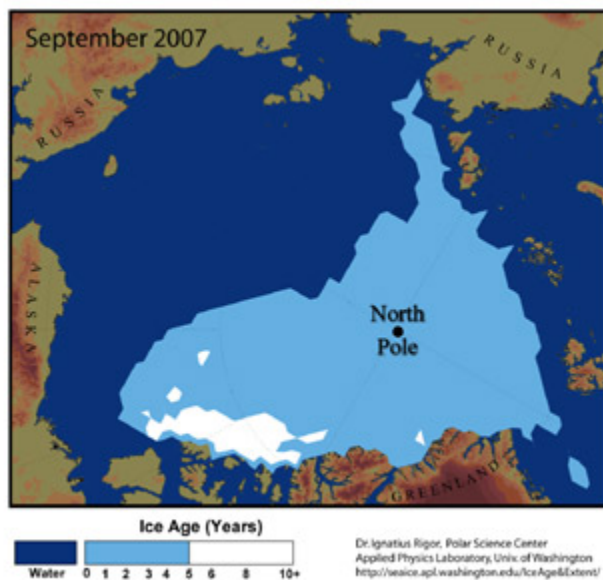
Here is what the sea ice looked like in September 1989.



Here is what it looked like in September 1999.



Here is what it looked like in September 2007.



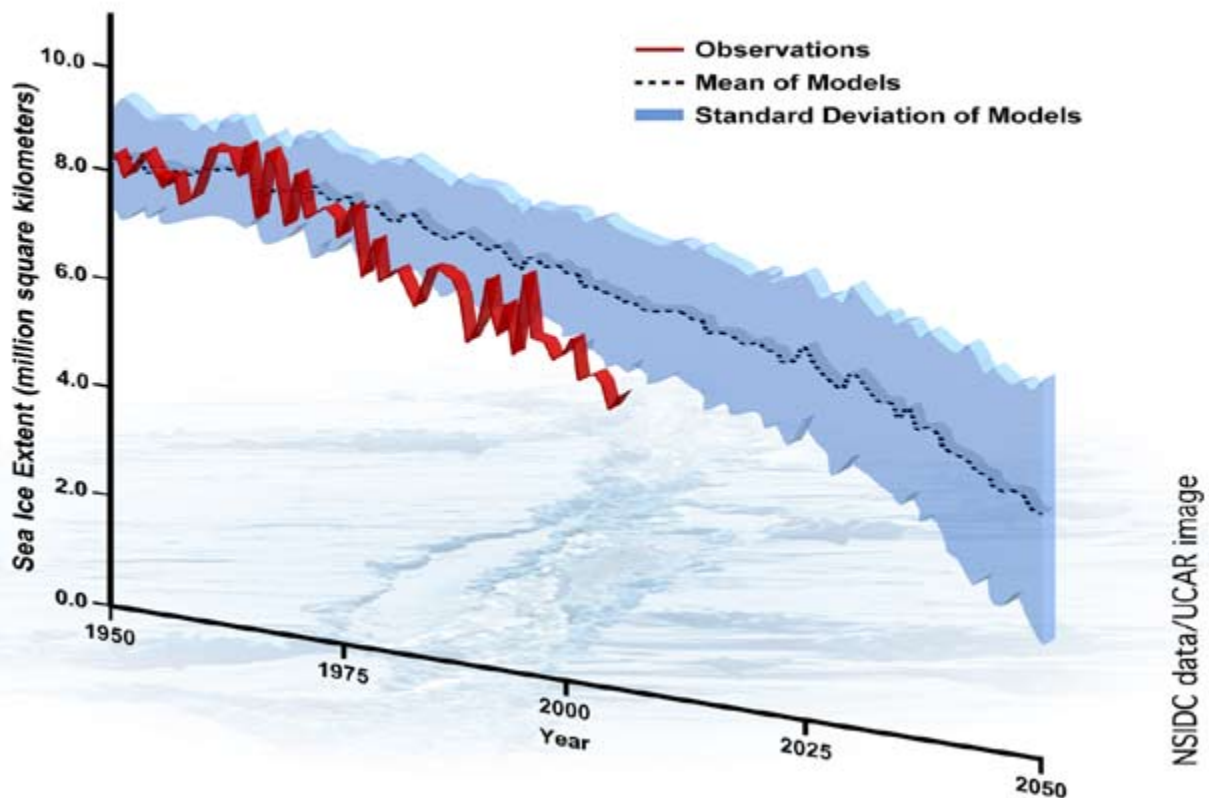
Remember, these are based on actual satellite photos.

The fact is that sea ice is receding in the arctic. Last year, arctic sea ice fell to the lowest level ever recorded by satellite, 39% lower than the long-term average from 1979 to 2000.

I asked the U.S. Geological Survey to project future sea ice and its relationship to polar bears. They produced a peer-reviewed analysis of computer models. All ten computer models projected declines in September sea ice, averaging 30% by the middle of this century.

This chart tells the story. This black line is the mean for all 10 models. It shows a continued steady decline in sea ice between 2008 and 2030.

Arctic September Sea Ice Extent: Observations and Model Runs



The red line is what we have recorded up to now from actual observations of sea ice from 1950 through last September. As you can see, when we have looked at what is actually happening in the Arctic, we have found considerably less sea ice than the models are projecting.

My hope is that the projections from these models are wrong, and that sea ice does not further recede. But the best science available to me currently says that is not likely to happen in the next 45 years.

Although the population of bears has grown from a low of about 12,000 in the late 1960's to approximately 25,000 today, our scientists advise me that computer modeling projects a significant population decline by the year 2050. This, in my judgment, makes the polar bear a threatened species – one likely to become in danger of extinction in the foreseeable future.

I have accepted the science presented to me by the Fish and Wildlife Service and the U.S. Geological Survey. I have also accepted these professionals' best scientific and legal judgments that the loss of sea ice, not oil and gas development or subsistence activities, are the reason the polar bear is threatened.

Polar bears are already protected under the Marine Mammal Protection Act, which has more stringent protections for polar bears than the Endangered Species Act does. The oil and gas industry has been operating in the Arctic for decades in compliance with these stricter protections. The Fish and Wildlife Service says that no polar bears have been killed due to encounters associated with oil and gas operations.

The most significant part of today's decision is what President Bush observed about climate change policy last month. President Bush noted that "The Clean Air Act, the Endangered Species Act and the National Environmental Policy Act were never meant to regulate global climate change."

The President is right. Listing the polar bear as threatened can reduce avoidable losses of polar bears. But it should not open the door to use the ESA to regulate greenhouse gas emissions from automobiles, power plants, and other sources. That would be a wholly inappropriate use of the Endangered Species Act. ESA is not the right tool to set U.S. climate policy.

The Endangered Species Act neither allows nor requires the Fish and Wildlife Service to make such interventions. The Service must articulate a causal connection between the effects of any action and loss of a polar bear. As the U.S. Geological Survey has advised me, the best scientific data available do not demonstrate significant impacts on individual polar bears from specific power plants, resource projects, government permits, or other indirect effects of activities in the lower 48 states that are potentially reviewable under the "consultation" requirements of the ESA.

The President is right when he says: "There is a right way and wrong way to approach reducing greenhouse gas emissions. The American people deserve an honest assessment of the costs, benefits and feasibility of any proposed solution. Discussions with such far-reaching impact should not be left to unelected regulators and judges but should be debated openly and made by the elected representatives of the people they affect."

This Administration has taken real action to deal with the challenges of climate change. The Administration and the private sector plan to dedicate nearly a billion dollars to clean coal research and development. Our incentives for power production from wind and solar energy have helped to more than quadruple its use. We have worked with Congress to make available more than \$40 billion in loan guarantees to support investments that will avoid, reduce, or sequester greenhouse gas emissions or air pollutants.

To make sure that the Endangered Species Act is not misused to regulate global climate change, I will take the following specific actions:

First, to provide clarity and certainty to those regulated under the Endangered Species Act, the Fish and Wildlife Service will propose what is known as a 4(d) rule that states that if an activity is permissible under the stricter standards imposed by the Marine Mammal Protection Act, it is also permissible under the Endangered Species Act with respect to the polar bear. This rule, effective immediately, will ensure the protection of the bear while allowing us to continue to develop our natural resources in the arctic region in an environmentally sound way.

Second, Director Hall will issue guidance to Fish and Wildlife Service staff that the best scientific data available today cannot make a causal connection between harm to listed species or their habitats and greenhouse gas emissions from a specific facility, or resource development project, or government action.

Third, the Department will issue a Solicitor's Opinion further clarifying these points.

Fourth, the ESA regulatory language needs to be clarified. We will propose common sense modifications to the existing regulation to provide greater certainty that this listing will not set backdoor climate policy outside our normal system of political accountability.

I sought to reform the Endangered Species Act with Senators Harry Reid and Max Baucus and the late John Chafee when I served in the United States Senate. I had lived with the consequences of ESA decisions as Governor of Idaho. As Secretary I have now experienced the reality that the current ESA is

among the most inflexible laws Congress has passed. It prevents me, as Secretary, from taking into account economic conditions and adverse consequences in making listing decisions.

In many ways, the polar bear poses a unique conservation challenge. With most threatened and endangered species, we can identify a localized threat that we can seek to address. The threat to the polar bear, however, comes from global influences and their effect on sea ice.

While the legal standards under the ESA compel me to list the polar bear as threatened, I want to make clear that this listing will not stop global climate change or prevent any sea ice from melting. Any real solution requires action by all major economies for it to be effective. That's why I'm taking administrative and regulatory action to make certain the ESA isn't abused to make global warming policies.

Last week, I met with my Canadian counterpart John Baird, the Minister of Environment, and we signed a Memorandum of Understanding for the conservation and management of polar bear populations shared by the United States and Canada. I will also reach out to my counterparts in other arctic nations to further increase international polar bear cooperation and research.

Additionally, the Interior Department will continue to:

- Monitor polar bear populations and trends,
- Study polar bear feeding ecology,
- Work cooperatively with the Alaska Nanuuq Commission and the North Slope Borough for co-management of polar bears in Alaska,
- Provide technical assistance to the participants of the 1988 North Slope Borough Inuvialuit (Inuvialuit) Game Council Agreement for the conservation of polar bears in the southern Beaufort Sea region and monitor the effects of oil and gas operations in the Beaufort Sea region.

This has been a difficult decision. But in light of the scientific record and the restraints of the inflexible law that guides me, I believe it was the only decision I could make.

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