



WORLD & NATION

Judge says fire retardant drops are polluting streams but allows them to continue



An aircraft drops fire retardant between a wildfire and homes in the Black Forest area northeast of Colorado Springs, Colo., on June 13, 2013. (John Wark / Associated Press)

BY MATTHEW BROWN | ASSOCIATED PRESS

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BILLINGS, Mont. — A judge ruled Friday that the U.S. government can keep using chemical retardant to fight wildfires, despite finding that [the practice pollutes streams](#) in western states in violation of federal law.

Halting the use of the [red slurry material](#) could have resulted in greater environmental damage from wildfires, said U.S. District Judge Dana Christensen in Missoula, Mont.

The judge agreed with U.S. Forest Service officials who said dropping retardant from aircraft into areas with waterways was sometimes necessary to protect lives and property.

The ruling came after environmentalists sued following revelations that the Forest Service dropped retardant into waterways hundreds of times over the past decade.

Government officials say chemical fire retardant can be crucial to slowing the advance of dangerous blazes. Wildfires across North America have grown bigger and more destructive over the past two decades as climate change warms the planet.

More than 200 loads of retardant got into waterways over the past decade. Federal officials say those situations usually occurred by mistake and in less than 1% of the thousands of loads annually.

A coalition that includes Paradise, Calif. — where [a 2018 blaze](#) killed 85 people and destroyed the town — had said a court ruling that stopped the use of retardant would have put lives, homes and forests at risk.

“This case was very personal for us,” Paradise Mayor Greg Bolin said. “Our brave firefighters need every tool in the toolbox to protect human lives and property against wildfires, and today’s ruling ensures we have a fighting chance this fire season.”

State and local agencies lean heavily on the Forest Service to help fight fires, many of which originate on or include federal land.

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Fire retardant is a specialized mixture of water and chemicals including inorganic fertilizers or salts. It's designed to alter the way fires burn, making them less intense and slowing their advance.

That can give firefighters time to steer flames away from inhabited areas and, in extreme situations, to evacuate people from danger.

“Retardant lasts and even works if it's dry,” said Scott Upton, a former regional chief and air attack group supervisor for the California Department of Forestry and Fire Protection. “Water is only so good because it dries out. It does very well to suppress fires, but it won't last.”

The Oregon-based group Forest Service Employees for Environmental Ethics argued in its lawsuit filed last year that the Forest Service was disregarding the federal Clean Water Act by continuing to use retardant without taking adequate precautions to protect streams and rivers.

Christensen said stopping the use of fire retardant would “conceivably result in greater harm from wildfires — including to human life and property and to the environment.”

The judge said his ruling was limited to 10 western states where members of the plaintiff's group alleged harm from pollution in waterways that they use.

After the lawsuit was filed, the Forest Service applied to the Environmental Protection Agency for a permit that would allow it to continue using retardant without breaking the law. That process could take years.

Christensen ordered federal officials to report every six months on their progress.

Experts say climate change, people moving into fire-prone areas, and overgrown forests are creating more catastrophic megafires that are harder to fight.

More than 100 million gallons of fire retardant were used during the past decade, according to the Department of Agriculture.

Health risks to firefighters or other people who come into contact with retardant are considered low, according to a 2021 risk assessment.

But the chemicals can be harmful to some fish, frogs, crustaceans and other aquatic species. A government study found misapplied retardant could adversely affect dozens of imperiled species, including crawfish, spotted owls and fish such as shiners and suckers.

To keep streams from getting polluted, officials in recent years have avoided drops inside buffer zones within 300 feet of waterways. Retardant may only be applied inside those zones when human life or public safety is threatened. Of 213 instances of fire retardant landing in water between 2012 and 2019, 190 were accidents and the remainder were necessary to save lives or property, officials said.

As the 2023 fire season gets underway, California Forestry Assn. President Matt Dias said the prospect of not having fire retardant available to a federal agency that plays a

key role on many blazes was “terrifying.”

Many areas of the western U.S. experienced heavy snowfall this past winter, and as a result fire dangers are lower than in recent years across much of the region.