

## Frequently Asked Questions

### Regarding the 90-Day Finding on the Petition to Delist the Ute ladies'-tresses Orchid as a Threatened Species Under the Endangered Species Act

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#### ***What is the Ute ladies'-tresses orchid?***

Ute ladies'-tresses orchid is a perennial, terrestrial orchid with stems 20 to 50 cm (8 to 20 inches) tall with small white or ivory flowers clustered into a spike at the top of the stem. Generally, it blooms from late July through August. The orchid occurs along stream and river edges, gravel bars, old oxbows, high flow channels, and moist to wet meadows along perennial streams. Populations of Ute ladies'-tresses orchids are known from three broad general areas of the interior western United States:

- near the base of the eastern slope of the Rocky Mountains in southeastern Wyoming and adjacent Nebraska and north-central and central Colorado;
- in the upper Colorado River basin, particularly in Utah's Uinta Basin; and
- in the Bonneville Basin along the Wasatch Front and westward in the eastern Great Basin, in north-central and western Utah, extreme eastern Nevada, and southeastern Idaho.

The orchid has also been discovered in southwestern Montana, in the Okanogan area and along the Columbia River in north-central Washington. Although the range of the orchid is large, it typically occurs as very localized clusters of colonies. Total populations size is estimated at approximately 60,000 individuals.

#### ***What is a 90-day petition finding?***

When the Service receives a petition to list, delist, or reclassify a species, the first step is to complete a finding on the petition. To the maximum extent practicable, this finding is to be made within 90 days of when the Service receives the petition and publishes it in the *Federal Register*. The purpose of the 90-day finding is to determine whether the petition contains substantial information indicating the petitioned action may be warranted.

#### ***What guides a Service petition review?***

A petition must provide substantial information to indicate that the petition action is warranted. The Service considers the reliability and adequacy of the information contained in the petition, the supporting documentation, and information otherwise available in Service files.

#### ***Why did it take 8 years for the Service to make a 90 day petition finding?***

In response to the petitioner's request to delist Ute ladies'-tresses orchid, the Service sent a letter to the petitioner on June 10, 1996, explaining its inability to act upon the petitions due to the low priorities assigned to delisting petitions in its 1996 Listing Priority Guidance (61 FR 24722).

Because Congressional spending caps expressly limited the amount the Service spent on listing actions (including delistings, reclassifications, and the designation of critical habitat) lower tier priority actions went unaddressed. Beginning in 1999, work on delisting (including delisting petition findings) was included in the line item for the recovery program instead of the listing program (64 FR 27596). Since 1999, higher priority work has further precluded the Service's ability to act upon this petition.

***Who petitioned the Service to delist Ute ladies'-tresses orchid?***

On May 10, 1996, the Service received a petition from the Central Utah Water Conservancy District to delist Ute ladies'-tresses orchid pursuant to the Act. A special status species update for Ute ladies'-tresses orchid, dated April 1996, accompanied the petition as supporting information.

***Why do the petitioners think Ute ladies'-tresses orchid should be delisted?***

The petition states that there is substantial new information indicating that the population size and distribution is much larger than known at the time of listing, there is more information on life history and habitat needs that makes better management possible, and that threats are not as great in magnitude or imminence as understood at the time of listing.

***What was the Service's finding?***

The Service determined that the petition to delist the Ute ladies'-tresses orchid as a threatened species provides substantial biological information to indicate that delisting may be warranted.

***What happens now that the Service has determined the petition was substantial?***

The Service will initiate a status review to assess the Ute ladies'-tresses orchid population abundance and distribution, recovery progress, and existing threats. Upon conclusion of the status review, the Service will issue a finding regarding the listing status of the orchid.

***What criteria is used to determine if a species should be delisted?***

Delisting a species must be supported by the best scientific and commercial data available. It must only be considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons:

1. the species is considered extinct;
2. the species is considered to be recovered; and/or
3. the original data available when the species was listed, or the interpretation of such data, were in error.

***How does the Service decide whether a species has been recovered and should be delisted?***

Under the Endangered Species Act, the process the Service uses to delist a species is similar to the one it uses to list a species. The Service assesses the population and its recovery achievements, as well as the existing threats. It also seeks advice from species' experts in and outside of the Service. To assess the existing threats, the Service must determine that the species is no longer threatened or endangered based on one or more of the five factors outlined in section 4(a)(1) of the Act:

- A) the present or threatened destruction, modification or curtailment of its habitat or

range;

B) overutilization for commercial, recreational, scientific, or educational purposes;

C) disease or predation;

D) the inadequacy of existing regulatory mechanisms: or

E) other natural or manmade factors affecting its continued existence.

***What happens once the status review is completed?***

If the status review indicates that a change in listing status is not warranted, the Ute ladies'-tresses orchid will remain listed as a threatened species under the Endangered Species Act.

If the Service determines that delisting may be warranted, it will propose the action in the *Federal Register* and seek the opinion of independent species experts, other Federal agencies, State biologists, and the public. After analyzing the comments received on the proposed rulemaking, the Service will decide whether to complete the proposed action or maintain the status of the orchid as it is. The final decision is announced in the *Federal Register*. The comments received and our responses to them are addressed in the final rule.

***When will the Service complete the recovery plan for the Ute ladies'-tresses orchid?***

A draft recovery plan was prepared and circulated for review by scientists and agency experts in 1995. If the decision is made not to delist, the Service will work with the Ute ladies'-tresses orchid recovery team to update and complete a final recovery plan based on information compiled for the status review. The Service anticipates that this could be completed during 2005.

***Where can I get a copy of the Service's 90-day finding on the petition to delist Ute ladies'-tresses orchid?***

In Utah, information is available for public review, by appointment, during normal business hours at 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. For more information call (801) 975-3330. It will also be posted on the Service's website: <http://mountain-prairie.fws.gov/species/plants/uteladiestress>