

Previous Federal Actions
SUPPLEMENT TO
Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the
Rufa Red Knot (*Calidris canutus rufa*)
[Docket No. FWS-R5-ES-2013-0097; RIN 1018-AY17]

SUPPLEMENTARY INFORMATION

PREVIOUS FEDERAL ACTIONS

On August 9, 2004, we received a petition dated July 24, 2004, from the Northeast Pennsylvania Audubon Society to emergency list the *Calidris canutus rufa* subspecies under the Act. On September 10, 2004, we sent a letter to the petitioner acknowledging receipt of the petition. Our letter also stated that emergency listing was not warranted, but that we would further evaluate the petition through the normal listing process once funding became available. We were unable to process the petition at that time due to court orders and other higher priorities.

On August 5, 2005, we received two separate petitions to emergency list the *Calidris canutus rufa* subspecies under the Act: the first petition, dated July 28, 2005, was from Defenders of Wildlife, Delaware Audubon Society, National Audubon Society, New Jersey Audubon Society, Virginia Audubon Council, Audubon New York, American Bird Conservancy, Audubon Maryland-DC, and Citizens Campaign for the Environment (collectively referred to as DOW *et al.*), and the second petition, dated August 2, 2005, was from Delaware Riverkeeper Network, American Littoral Society, Delmarva Ornithological Society, Delaware Chapter of the Sierra Club, and New Jersey Audubon Society (collectively referred to as DRN *et al.*). On December 22, 2005, we responded to the DOW *et al.* and the DRN *et al.* petitions, stating that emergency listing was not warranted, but that the petitions would be processed under the Service's normal process.

On May 15, 2006, we received a 60-day notice of intent to sue from DOW *et al.* for failure to complete 90-day and 12-month findings on their petition to list. On June 14, 2006, we received a 60-day notice of intent to sue dated June 7, 2006, from the Rutgers Environmental Law Clinic for failure to complete 90-day and 12-month findings on the DOW *et al.* and DRN *et al.*'s petitions to list. On June 18, 2006, DOW brought a lawsuit alleging that the Service failed to make the findings.

On September 12, 2006, we mooted out the DOW *et al.* and Rutgers Environmental Law Clinic lawsuits by making a determination that, while emergency listing was not warranted, listing *Calidris canutus rufa* under the Act was warranted, but that listing was precluded by higher priority listing actions. We added *C.c. rufa* to the list of candidate species and assigned it a listing priority number of 6, meaning the subspecies faced a high degree of non-imminent threats (71 FR 53756, September 12, 2006).

We continued to evaluate the need for emergency listing and our "warranted but precluded" determinations for red knot annually in the Candidate Notice of Review (CNOR) from 2007 to 2012 (72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR

57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012). In the 2008 CNOR, we elevated the *Calidris canutus rufa* listing priority number from 6 to 3 (73 FR 75176, December 10, 2008), meaning the subspecies faced a high degree of imminent threats.

On January 19, 2007, we received a petition from the New Jersey Horseshoe Crab Representatives and three individuals requesting that we remove the *Calidris canutus rufa* subspecies from the candidate list.

On February 27, 2008, we received a petition, dated February 27, 2008, from Defenders of Wildlife, American Littoral Society, American Bird Conservancy, Delaware Audubon, Delaware Nature Society, Delaware Riverkeeper Network, National Audubon Society, New Jersey Audubon Society, and Citizens Campaign for the Environment, requesting that the Department of the Interior (Department or DOI) use its emergency authorities under section 4(b)(7) of the Act to list the red knot *Calidris canutus rufa* subspecies as an endangered species. The petitioners also sought to have the Department list as endangered “a broader taxon comprising both the *rufa* subspecies and the *roselaari* subspecies.” The petition further called for a “national listing based on similarity of appearance” under section 4(e) of the Act. In a May 1, 2008, letter responding to the petition, we stated that, while we had previously made a determination that listing *C.c. rufa* was “warranted but precluded” and added the subspecies to our candidate list, we were reevaluating—as part of our annual candidate review process—whether listing remained “warranted but precluded” and whether to utilize the emergency listing provisions of the Act. We also stated that, due to court orders and judicially approved settlement agreements for other listing and critical habitat determinations under the Act that required nearly all of our listing and critical habitat funding for fiscal year 2008, we would not be able to further address the petition’s request to list *C.c. roselaari* at that time but would complete the action when workload and funding allowed. On January 4, 2011, the Service made a “not substantial” finding on the February 27, 2008, petition determining that listing the *roselaari* subspecies under the Act was not warranted (76 FR 304, January 4, 2011).

On May 7, 2008, we received a petition, dated May 7, 2008, from 48 individuals, requesting that we list the red knot *Calidris canutus rufa* subspecies as an endangered or threatened species under the Act. We accepted the petition and considered it a subsequent petition to the previous 2004, 2005, and 2008 petitions to list or emergency list the red knot *C.c. rufa* subspecies as an endangered or threatened species under the Act.

On September 15, 2011, a court-approved multi-district litigation settlement agreement between the Service and the Center for Biological Diversity specified that a red knot listing determination must be made by September 30, 2013.