

U.S. Fish and Wildlife Service
Region 5 Endangered Species Act Update
April 6, 2017

Recovery Planning and Implementation

- **White-Nose Syndrome (WNS)** (All States) – As of March 27, 2017, WNS has been confirmed in 30 states and 5 Canadian provinces. The causative fungus has also been detected in three additional states (MS, OK, and TX).
 - On March 23, 2017, the Texas Parks and Wildlife Department announced the detection of *Pseudogymnoascus destructans* (Pd) on three bat species at sites in six counties of north-central Texas, making it the 33rd state to detect the presence of Pd on hibernating bats. This is the first detection of the pathogen on cave myotis and western subspecies of Townsend’s big-eared bat, both of which have extensive western distributions. (<http://tpwd.texas.gov/newsmedia/releases/?req=20170323c>)
 - The National Fish and Wildlife Foundation (NFWF), in partnership with the Service and U.S. Forest Service, established the Bats for the Future Fund (BFF) to support the development and implementation of tools to improve survival of bats affected by WNS. The BFF leverages federal funds to focus on developing treatment and management strategies that improve survival of bats with WNS. NFWF anticipates releasing an RFP in April 2017 to support up to \$1 million in grants.
 - The Service plans to offer three additional grant programs in 2017:
 - 1) State capacity grants: \$1 million total; \$30K cap per state; closes 5/15/17 (<https://www.grants.gov/web/grants/search-grants.html?keywords=F17AS00166>)
 - 2) Open research grants: \$1.2 million total; \$250K cap per award; coming soon
 - 3) Small grants: \$250K total; \$30K cap; managed by WMI; coming fall 2017
 - Persistence of Little Brown Bats: Little brown bats are persisting, generally in low numbers in the eastern United States, providing hope that some individuals will survive WNS naturally. Most hibernating populations continue to exhibit declines, however, and similar observations have not been made for tricolored or northern long-eared bats.
 - Treatment Field Trials: Several field trials of potential treatments are underway this winter in Georgia, Michigan, Missouri, Pennsylvania, Tennessee, and Wisconsin. Other scientists are looking for new biocontrol agents in Arizona, New Mexico, Minnesota, and British Columbia.
 - Monthly Conference Calls: The Service continues to host two monthly WNS conference calls, held on the first and third Thursdays of each month, to discuss WNS-related topics with state, Federal, tribal, and nongovernmental partners in the United States and Canada. Please contact Jeremy Coleman, National WNS Coordinator (jeremy_coleman@fws.gov), with requests to be added to the email list.
 - WNS Workshop: Pending a review of costs, the Service will host the 2017 White-Nose Syndrome Workshop in Nashville, TN on May 23-25. The workshop has been held annually for Federal, state, provincial, and tribal personnel, researchers, and

stakeholders to advance the efforts of the collaborative national effort to combat WNS. A 1-day meeting of key personnel involved in implementing the North American Bat Monitoring Program (NABat) is planned for Monday, May 22 at the same location. Additional details about these meetings will be forthcoming soon.

More information on how the Service is working with our many partners to address WNS can be found at: <https://www.whitenosesyndrome.org/>.

Jeremy Coleman, National White-Nose Syndrome Coordinator, can be reached at our Regional Office at jeremy_coleman@fws.gov.

- 2) **Atlantic Salmon Recovery Plan (ME)** – On May 31, 2016, the public comment for the Draft Recovery Plan for the expanded Gulf of Maine Distinct Population Segment of Atlantic Salmon closed. The Service and National Marine Fisheries Service share jurisdiction of the species and jointly prepared the draft plan, which includes recovery objectives that, when met, would allow us to consider reclassifying the DPS from endangered to threatened and, ultimately, to delist the DPS. We received 12 highly substantive comments on the draft plan. These comments will be considered during preparation of the final recovery plan and incorporated into the plan as appropriate. Completion of the final plan is expected in spring 2017.

The draft plan can be found at <http://atlanticsalmonrestoration.org/resources/documents/atlantic-salmon-recovery-plan-2015>

For more information, contact Mary Parkin of our Regional Office at mary_parkin@fws.gov.

- 3) **Canada Lynx Status Assessment and Recovery Plan (ME, NH, VT)** – On June 14, 2014, the U.S. District Court for the District of Montana ordered the Service to complete a recovery plan for the U.S. DPS of Canada lynx by January 15, 2018, unless the Service finds that such a plan will not promote the conservation of the lynx. The Service is nearing completion of a species status assessment (SSA) for the DPS, after which we will issue a 5-year review recommendation based upon results of the assessment. We expect to finalize the 5-year review in early 2017. If it is determined that the DPS should remain listed, we will immediately initiate recovery planning, again using the SSA framework as a foundation for proposing recovery criteria and recommended actions.

Detailed information about the Canada lynx can be found at <http://bit.ly/CanadaLynxUSFWS>

For additional information, contact Mark McCollough in our Maine Field Office at mark_mccollough@fws.gov.

Section 10 Incidental Take Permits - Habitat Conservation Plans (HCPs)

- 1) **Pennsylvania Forestry HCP (PA)** – The Pennsylvania Game Commission (PGC) and the Department of Conservation and Natural Resources (DCNR) are developing an HCP for Indiana and northern long-eared bats to support a section 10 permit application for forest management-related activities on 1.4 million acres of PGC State Game Lands, 2.2 million acres of DCNR State Forests, and 295,000 acres of DCNR State Parks. The PGC and DCNR were awarded a section 6 grant to fund continued work on the HCP. The Service is developing an environmental impact statement for the project and anticipates making a permit issuance decision in 2018. For more information, contact Pamela Shellenberger in our Pennsylvania Field Office at pamela_shellenberger@fws.gov.
- 2) **Duke Energy North Alleghany Wind HCP (PA)** -- The Service has received an incidental take permit application from North Allegheny Wind, LLC, a wholly owned subsidiary of Duke Energy Generating Services (or Duke Energy Renewables), for take of Indiana bats and northern long-eared bats resulting from operation, maintenance, and decommissioning of its wind facility. The Service is developing an environmental assessment for the project and anticipates making a permit issuance decision in late 2017. For more information, contact Melinda Turner in our Pennsylvania Field Office at melinda_turner@fws.gov.
- 3) **Slack Chemical Company HCP (NY)** – On January 26, 2017, the Service issued an incidental take permit to the Slack Chemical Company for take of the Karner blue butterfly resulting from construction of a gravel access road for expansion of a parking lot for its trucking fleet. The project is located at Grande Industrial Park, Saratoga Springs, Saratoga County, New York. The permit authorizes the permanent loss of 0.10 acre of KBB habitat from construction activities and up to 4.81 acres of temporary loss due to habitat enhancement activities over a period of 10 years. For more information, contact Noelle Rayman in our New York Field Office at noelle_rayman@fws.gov.
- 4) **Oil and Gas Coalition Multi-State HCP (OH, PA, WV)** – A coalition of nine oil and gas companies is developing an HCP to cover midstream and upstream oil and gas exploration, production, and maintenance activities in Ohio, Pennsylvania, and West Virginia over a 50-year period. The Coalition has indicated that it intends to request ITP coverage for five bat species: the endangered Indiana bat (*Myotis sodalis*), the threatened northern long-eared bat (*Myotis septentrionalis*), the little brown bat (*Myotis lucifugus*), the eastern small-footed bat (*Myotis leibii*), and the tricolored bat (*Perimyotis subflavus*). The Service held five scoping meetings and one webinar in December 2016 to seek public input regarding development of the draft EIS. For more information, contact Pamela Shellenberger in our Pennsylvania Field Office at pamela_shellenberger@fws.gov.

Classification – Candidate Assessment, Petition Finding, Listing, Delisting, Reclassification, Critical Habitat Designation

- 1) **National Listing Workplan (All States)** – On September 1, 2016, the Service announced a 7-year (fiscal year (FY) 2017 to 2023) plan to address our ESA listing workload. The Workplan is based on the July 2016 final ESA Status Review Prioritization Methodology (<https://www.gpo.gov/fdsys/pkg/FR-2016-07-27/pdf/2016-17818.pdf>). The Prioritization

Methodology and resulting Workplan allow us to address our current status review backlog in an efficient, predictable, and transparent manner. Under this approach, each status review is assigned to one of five priority categories, according to the imminence of threats, availability of relevant information, and ongoing conservation efforts by states and other stakeholders.

The national Workplan is posted at

https://www.fws.gov/angered/improving_ESA/index.html

There are three documents:

- a FY 2017 plan that shows ongoing carryover actions from FY16 as well as new actions; this is a more complete picture of the Service's listing work and helps explain why, due to workload capacity and conservation priority, there are actions scheduled for other years;
- a FY17to FY 2023 plan that shows only new actions scheduled according to workload capacity and conservation priority; and
- a list of currently unscheduled actions, mostly for species that lack data.

The Workplan identifies each action's completion date; work on the action will begin a at least a year or two before this date, depending on the species' range, other biological complexities, and staffing consideration. If you have information or questions about the species that occur in your areas, we ask that you coordinate with the Field Office Supervisor in the appropriate state. For some of these species, the Service's lead field office is one located in another Service Region. As of FY 2017, the national Workplan addresses status reviews for 112 species occurring in Region 5 (69 R5 lead; 43 non-R5 lead). For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 1) Tricolored Bat Petition** (All States) – On June 14, 2016, the Service received a petition from the Defenders of Wildlife and the Center for Wildlife Diversity to list the tricolored bat (*Perimyotis subflavus*) as an endangered or threatened species. We are required to make a substantial or not substantial finding on whether the petitioned information indicates that the petitioned action may be warranted. If we find that the petition is substantial, we will initiate a status review for the species which would be based on evaluating all of the best available information. A 90-day petition finding for the species should be published by late spring 2017. For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.
- 2) Rusty Patched Bumblebee Final Listing Rule** (All States) – On January 11, 2017, the Service published a final rule to list the rusty patched bumble bee (*Bombus affinis*) as an endangered species. The final listing rule became effective on March 21, 2017.

Before the mid- to late 1990s, the rusty patched bumble bee was considered abundant across a broad geographic range that included 28 states, the District of Columbia and two Canadian provinces. Today it is found only in small, isolated populations in 12 states and 1 province: Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, North Carolina, Ohio, Tennessee, Virginia, Wisconsin – and Ontario, Canada. Threats that have likely synergistically contributed to the rusty patched bumble bee's dramatic decline include:

disease, pesticides, the effects of climate change, habitat loss, and the effects of small population dynamics.

Documents pertaining to the rulemaking can be found at the following links:

Final rule: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-11/pdf/2017-00195.pdf>

Additional information: www.fws.gov/midwest/endangered/insects/rpbb

For more information, contact Mary Parkin in our Regional Office at mary_parkin@fws.gov.

- 3) Kenk's amphipod Final Listing Determination/Proposed Critical Habitat Designation** (DC, MD, VA) – On September 30, 2016, the Service published a proposed rule to list the Kenk's amphipod (*Stygobromus kenki*) as an endangered species and made a determination that critical habitat was prudent but not determinable. The comment period on the proposed rule closed on November 29, 2016. Submitted comments, including peer reviewer comments can be viewed through www.regulations.gov under docket #FWS-R5-ES-2016-0030.

The Kenk's amphipod is a small (maximum length 5.5 mm), eyeless, unpigmented crustacean inhabiting shallow ground water and associated springs and seeps. Historically, it has been found in a total of six seepage springs in Montgomery County, Maryland and the District of Columbia. Its habitat consists of hillside seepage springs in wooded areas within the watersheds of Rock Creek and the Northwest Branch of the Anacostia River. More recently, the species was also located in four seepage springs on Fort A.P. Hill in Caroline County, Virginia. The primary threats to the species' viability are poor water quality, habitat degradation, and the effects of small population dynamics.

A final determination on the proposed rule to list the Kenk's amphipod as an endangered species must be made no later than September 30, 2017, to comply with statutory deadlines. The final determination may be one of three options: finalize as an endangered species, finalize as a threatened species, or withdraw the proposed listing rule. If the listing the species as an endangered or threatened species remains warranted, the Service will also publish a proposed critical habitat designation rule. For more information, contact Julie (Thompson) Slacum in our Chesapeake Bay Field Office at julie_thompson@fws.gov.

- 4) Big Sandy Crayfish and Guyandotte River Crayfish Critical Habitat Designation** (VA, WV, KY) – On April 7, 2016, the Service published the final rule to list the Big Sandy crayfish (*Cambarus callainus*) as threatened and the Guyandotte River crayfish (*C. veteranus*) as endangered. The Service is developing a draft proposed critical habitat designation rule for these crayfishes.

Documents pertaining to the rulemaking can be found at the following links:

Final rule:

<https://www.gpo.gov/fdsys/pkg/FR-2016-04-07/pdf/2016-07744.pdf>

Big Sandy and Guyandotte River Crayfishes website:

<http://www.fws.gov/northeast/crayfish/>

For more information, contact Keith Hastie in our Regional Office at keith_hastie@fws.gov.

- 5) Bicknell's Thrush 12-Month Finding** (ME, VT, NH, NY, MA) – In September 2013, the U.S. District Court in the District of Columbia approved a settlement agreement between the Center for Biological Diversity (CBD) and the Service on CBD's complaint that the Service failed to complete the 12-month finding on CBD's petition to list the Bicknell's thrush and seven other species within the statutory timeframe. The settlement agreement specifies that the Service will send the 12-month finding to the Federal Register by September 30, 2017.

The Service notified interested parties in March and April 2016 that we were seeking new information on the species. The Service is preparing a biological species report that will support the subsequent 12-month finding. For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 6) Candy darter** (VA, WV) – In July 2015, the U.S. District Court in the District of Columbia approved a settlement agreement between the Center for Biological Diversity (CBD) and the Service on CBD's complaint that the Service failed to complete the 12-month finding on CBD's petition to list the candy darter within the statutory timeframe. The settlement agreement specifies that the Service will send the 12-month finding to the Federal Register by September 30, 2017.

The Service notified interested parties in August and September 2016 that we were seeking new information on the species. The Service is preparing a species status assessment (SSA) report that will support the subsequent 12-month finding. For more information, contact Keith Hastie in our Regional Office at keith_hastie@fws.gov.

- 7) Yellow lance and Atlantic pigtoe mussels** (MD, VA, NC, SC, GA) – On September 22, 2014 (Atlantic pigtoe), and September 9, 2015 (yellow lance), the Service and the CBD filed stipulated settlements in the District of Columbia, agreeing that the Service would submit to the Federal Register a 12-month finding for the yellow lance no later than March 31, 2017, and for the Atlantic pigtoe no later than April 1, 2018. On April 5, 2017, the Service published in the Federal Register a proposed rule to designate the yellow lance as a threatened species. The public comment period closes on June 4, 2017. A publication date for the 12-month finding for the Atlantic pigtoe has not yet been determined. For more information, contact Sarah McRae in our Raleigh North Carolina Field Office at sarah_mcr@fws.gov.

- 8) Yellow Banded Bumble bee** (CT, IL, KY, MA, MD, ME, MI, MN, MT, NC, ND, NH, NY, OH, PA, RI, SD, TN, VA, VT, WI, WV, Canada) – On March 16, 2016, the Service published a Federal Register notice announcing a substantial 90-day finding on a petition to list the yellow banded bumblebee received in 2015 from the Defenders of Wildlife. We found the petition presented substantial indicating that listing may be warranted based on the potential threats to the species from habitat loss, degradation, or modification (agricultural intensification and urban development), disease (*Locustacarus buchneri* and *Nosema bombi*), the inadequacy of existing regulatory mechanisms, and other natural or manmade factors (via climate change, the use of pesticides, and population dynamics and structure). The Service has initiated a species status review, which will support a 12-month finding, and is seeking

the best scientific and commercial data available from all sources. We will complete the 12-month finding by September 30, 2018. Information can be sent to Sandra Lary in our Regional Office at sandra_lary@fws.gov.

- 9) American Burying Beetle** (AR, KS, OK, MA, NE, OH, RI, SD, TX) – On March 16, 2016, the Service published a Federal Register notice announcing a substantial 90-day finding for the American burying beetle. We found the petition presented substantial information indicating that delisting may be warranted. The Service has initiated a species status review, which will support a 12-month finding. The Service will complete the 12-month finding in FY 2017. Information can be sent to Kevin Stubbs in the Oklahoma Field Office at kevin_stubbs@fws.gov.

- 10) Rufa Red Knot Proposed Critical Habitat Determination** (All States) – On January 12, 2015, the Service's final rule to list the rufa red knot as a threatened species throughout its range became effective. The range includes: Argentina, Aruba, Bahamas, Barbados, Belize, Brazil, British Virgin Islands, Canada, Cayman Islands, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, France (Guadeloupe, French Guiana), Guatemala, Guyana, Haiti, Jamaica, Mexico, Panama, Paraguay, Suriname, Trinidad and Tobago, Uruguay, Venezuela, and the United States (AL, AR, CT, CO, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NE, NC, ND, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, WY, Puerto Rico, U.S. Virgin Islands). Interior states are included in the range because rufa red knots have been documented in those states during migration.

Documents pertaining to the listing rulemaking can be found at <http://www.fws.gov/northeast/redknot/>

The Service is developing a critical habitat determination for the red knot; a publication date for this determination has not been set. For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 11) Eastern Cougar Proposed Delisting Rule** (All States) – On June 17, 2015, the Service published in the Federal Register a proposed rule to delist the eastern cougar. The proposal is based on the 5-year review issued on March 2, 2011, which concluded that the eastern cougar is extinct and recommended the subspecies be delisted. The public comment period closed on August 17, 2015. On June 28, 2016, the comment period was reopened for 30-days to obtain comments from peer reviewers. We expect to publish a final determination on the proposal in late 2017.

Documents pertaining to this rulemaking can be found at the following links:

Proposed rule: <http://www.gpo.gov/fdsys/pkg/FR-2015-06-17/pdf/2015-14931.pdf>

Reopening notice: <https://www.gpo.gov/fdsys/pkg/FR-2016-06-28/pdf/2016-15227.pdf>

For more information, contact Mark McCollough in our Maine Field Office at mark_mccollough@fws.gov.

12) Chittenango Ovate Amber Snail Petition (NY) – The Service received a petition dated January 6, 2012, to designate critical habitat for the Chittenango ovate amber snail; adopt a rule to prohibit hydraulic fracturing and related activities within 3,000 feet of the boundaries of critical habitat designated for any federally threatened or endangered species; and adopt a rule requiring any state to consult with the Service prior to issuing any permits for activities that might adversely impact the ecosystem upon which critical habitat is directly dependent for any listed species. These actions are petitionable under the Administrative Procedure Act but not the ESA. On November 9, 2012, we sent a letter to the petitioner stating that we have determined that critical habitat designation would not provide significant conservation benefit to the snail and that therefore we will not designate critical habitat for the species. We have not yet responded to the petitioner's second and third rulemaking requests. For more information, contact Robyn Niver in our New York Field Office at robyn_niver@fws.gov.

13) Brook Floater Freshwater Mussel SSA to inform 12-Month Finding - (CT, DC, GA, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA, VT, WV, Canada). In April 2010, the Service received a petition to list the Brook Floater (*Alasmidonta varicosa*) as threatened or endangered. On September 27, 2011, the Service issued a 90-day finding that the petition presented substantial information indicating that the petitioned action may be warranted. As part of the National Listing Workplan the Service will complete the 12-month finding by September 30, 2018.

Documents pertaining to the finding can be found at:

<https://ecos.fws.gov/ecp0/profile/speciesProfile.action?sPCODE=F03D>

For more information, contact Sandie Doran in our New York Field Office at sandra_doran@fws.gov

14) Frosted Elfin Butterfly SSA to Inform Conservation Strategy – (AL, AR, CT, DC, DE, FL, GA, IL, IN, KY, KS, LA, MA, MD, MI, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV; Canada (Ontario)) The Service is proactively assessing the conservation status of the frosted elfin (*Callophrys irus*), including whether or not the species may warrant Federal protection under the Endangered Species Act. The Service has prioritized the frosted elfin's status review, using the July 2016 Methodology for Assessing Status Reviews, as a Bin 4 (species for which proactive conservation efforts by states, landowners and stakeholders are underway or being developed). As such, making a recommendation on the frosted elfin's status is scheduled for September 30, 2023 on our National Listing Workplan. To facilitate coordination among partners and implementation of conservation actions, we have committed to drafting a conservation strategy for the species by December 31, 2017. The New York Field Office is the lead office for this effort.

In support of developing the conservation strategy, we will conduct two out of three components of a Species Status Assessment (SSA). The SSA will use the best available scientific information to evaluate the species' needs, as well as its past and current resiliency, redundancy, and representation. The SSA analysis for the frosted elfin will provide supporting biological information to draft a conservation strategy for this species

and ensure that we are focusing on the primary drivers of its viability in the most appropriate locations. Prior to making a recommendation on its status in FY2023, we will revise and update the SSA to add the final component, projecting the future status of the species.

A request for information will be sent to the States, Tribes, Federal agencies, and other partners in late March-early April 2017. We are currently seeking information about the species' occurrence, host plants, potential stressors, and conservation actions. We will accept information at any time, but it would be most helpful to receive that information by April 30, 2017.

For more information, please contact Robyn Niver in our New York Field Office at robyn_niver@fws.gov.