



Questions & Answers

about the FWS 90-day finding on a petition to delist the
Pacific Coast population of the western snowy plover
March 2004

Q. What is a 90-day finding on a petition to delist?

A. Section 4 of the Endangered Species Act requires that the U.S. Fish and Wildlife Service make a finding on whether a petition to list, delist, or reclassify a species contains “substantial” information to indicate that the requested action may be warranted. That finding is to be made within 90 days, to the maximum extent practicable, after receipt of the petition, and is to be published in the *Federal Register*. Findings are based on information contained in the petition, supporting information submitted with the petition, and other information available to the Service at the time.

Q. What is meant by “substantial” information?

A. When the Service evaluates a petition, it considers the adequacy and reliability of the information supporting the proposed action. A “substantial” finding means that the Service has determined that the petition presents adequate and reliable information that would lead a reasonable person to believe the petitioned action *may* be warranted. It is not a final conclusion about the information presented.

Although the Service listed the Pacific Coast distinct population segment (DPS) of the western snowy plover as a threatened species in 1993, it did not publish a policy on distinct population segments until 1996 – three years after the species was listed. The policy states that any DPS listed prior to the policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing. The Service will reevaluate whether the species qualifies as a DPS under the 1996 policy.

Q. What do the petitions seek?

A. Petitioners seek to remove the Pacific coast population of the western snowy plover from the list of threatened species. The petition asserts that the original decision to list the Pacific Coast western snowy plover was in error, on the grounds that it failed to meet the requirements for designating a distinct population segment (DPS). The petition also asserts that even if the western snowy plover is a DPS, it is not threatened. The petitioners’ primary support for their position is an unpublished master’s thesis that failed to find significant genetic differentiation between Pacific Coast plovers and interior plovers. The Service’s original determination of the distinctiveness of the Pacific Coast population was based on scientific information that showed the coastal plovers breed in different areas than inland plovers.

The Service's Distinct Vertebrate Population Segment Policy, published in 1996, stipulates that a vertebrate population segment must be both discrete and significant to qualify for consideration for listing under the Act. As such, the Service considers information on behavior, distribution, ecology and – if available – genetics in making a determination of whether a population is discrete and significant.

Q. What happens now?

A. Once a positive 90-day finding is made, the Service proceeds with a status review of the species. At the end of this detailed study – known officially as a 12-month status review – the Service will decide whether the petitioned action is warranted. If a warranted finding is made, the Service must promptly publish a proposed rule to pursue the petitioned action. A 12-month review includes a full examination of all scientific literature and any other information that is available or submitted to the Service.

Because a status review is also required for the five-year review of listed species under the Endangered Species Act, the Service is electing to prepare these two reviews simultaneously.

Q. Can the public provide comments or information for the 12-month review?

A. Yes. To ensure that the review is comprehensive and based on the best available science, the Service is opening a 60-day public-comment period to solicit information and data regarding the species. Comments, material, information, or questions concerning this petition and finding should be sent to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, California 95825-1846. The petition, finding and supporting information are available for public inspection by appointment during normal business hours at the above address.

Q. When does the comment period close?

A. Comments and information should be submitted by 5 p.m. Thursday, May 20, 2004.

Q. If the Service proposes to delist the Pacific Coast population of the western snowy plover, will the public have a chance to comment?

A. Yes. Any proposed change in the listing status – in this case either delisting or reclassifying the species as endangered – will be subject to extensive public comment and review, possibly including public hearings or workshops.

Q. Why did it take the Service so long to respond to the petition?

A. The Service is required under the Endangered Species Act to make a determination on a petition within 90 days of receiving it to the maximum extent practicable. In this case,

the Service was not able to comply within the 90-day timeframe because of numerous other actions that were subject to court-ordered deadlines.

Q. Who submitted the petitions to de-list the Pacific Coast population of the western snowy plover?

A. The Surf-Ocean Beach Commission of Lompoc, CA, and the City of Morro Bay, CA.

Q. Has the Service designated critical habitat for the Pacific Coast population of the western snowy plover?

A. Yes. In 1999, the Service designated 28 areas in California, Oregon and Washington as critical habitat. The designated areas totaled 18,000 acres and 180 miles of coastline, or about 10 percent of the coastline of the three states. Of the 28 critical habitat units, 19 were in California, seven in Oregon and two in Washington.

In 2003, a Federal judge in Eugene, Oregon, ordered the Service to rewrite the critical habitat designation because it did not adequately assess economic effects. Two critical habitat units in Washington and two in California have been invalidated, but the others remain in place pending the new proposed rule, which is expected to be made public in late 2004.

Q. Has the Service prepared a recovery plan for this species?

A. Yes. The Service released a draft recovery plan in May 2001. The Service expects to release a final recovery plan later this year. The draft plan establishes recovery criteria and outlines actions that are needed to help conserve and recover the species. Since the draft plan was released, the Service has been working with other Federal and state agencies to protect habitat along beaches while permitting human access for recreation and other uses.

Q. What are the threats to the Pacific Coast population of the western snowy plover?

A. Only 28 major nesting areas remain, and the size of the Pacific Coast snowy plover population has declined. Human activity on beaches, such as walking, jogging, walking pets, operating off-road vehicles, and horseback riding during the plover breeding season can inadvertently cause destruction of eggs and chicks. Encroachment of exotic European beach grass into nesting areas and predation are other primary factors in the decline of the plover.

Q. What is the latest count of the number of plovers?

A. As of the end of 2003, biologists and researchers had counted 1,629 breeding adult birds in the three states – 66 in Washington, 93 in Oregon, and 1,470 in California. Additional birds can be found in Baja California, Mexico.

Plover Facts

The western snowy plover is a small shorebird that weighs about 1 to 2 ounces and is 5 to 7 inches in length. It has a pale gray-brown back, white chest, and black legs and bill. Its average life span is about 3 years.

The Pacific coast population of snowy plovers consists of birds that nest on the mainland coast, peninsulas, offshore islands, bays, estuaries, or rivers of the Pacific Coast from southern Washington to southern Baja California, Mexico. The Pacific Coast birds are classified under the Endangered Species Act as a “distinct population segment,” which is separate from western snowy plovers that breed inland.

Biologists estimate that no more than 2,000 snowy plovers breed along the Pacific coast from early March to late September. They make their nests on sand spits, dune-backed beaches, beaches at creek and river mouths, and salt pans at lagoons and estuaries. Plover chicks leave the nest within hours after hatching to search for food, but are not able to fly for about a month.

The Service listed the Pacific Coast population of the western snowy plover as a threatened species in 1993. It designated critical habitat in 1999.

More questions?

Write or call:

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