

Facts and Q&A about the 90-day finding on A petition to list the California Spotted Owl

June 14, 2005

Prepared by the Sacramento U.S. Fish and Wildlife Office

Background on the species:

Spotted owls are medium-sized brown owls with white spots on the head, neck, back, and underparts and white and light brown bars on the wings and tail. They have brown eyes and round heads without ear tufts. The California spotted owl is one of three subspecies of spotted owls. The other subspecies, the northern and Mexican spotted owls have been listed by the U.S. Fish and Wildlife Service as threatened. The California spotted owl is intermediate in color between the darker northern spotted owl and lighter Mexican spotted owl. The size of the spots of the California spotted owl is also intermediate between the larger spots of the Mexican subspecies and the smaller spots of the northern subspecies.

In the Sierra Nevada range, the California spotted owl can be found from Shasta County south to the Tehachapi Pass, but it also occurs in a few sites on the eastern side. The subspecies occurs in the central Coast Ranges at least as far north as Monterey County, and in all major mountains of Southern California including the San Bernardino, San Gabriel, Tehachapi, north and south Santa Lucia, Santa Ana, Liebre/Sawmill, San Diego, San Jacinto, and Los Padres ranges. The elevation of known nest sites of California spotted owls ranges from about 1,000 feet to 7,700 feet, with approximately 86 percent of sites occurring between 3,000 and 7,000 feet. The subspecies uses and selects habitats with mature and old growth forests, including large trees and snags, high canopy cover, and multiple-layered canopy in a variety of forests.

In the Sierra Nevada, the distribution of the California spotted owl is mostly continuous and uniform, with several breaks where habitat appears limited due to natural- or human-caused factors. In southern California, the owl occupies islands of high-elevation forests isolated by lowlands covered by chaparral, desert scrub, and human development. There are a total of 1,865 known California spotted owl sites in the Sierra Nevada and 440 territories in southern California. According to population models, the California spotted owl has experienced significant population declines throughout most of its range. Primary concerns over the subspecies focus on habitat loss and modification due to logging and urbanization and the lack of regulatory mechanisms to prevent such loss and modification. An increasing concern is potential loss of habitat through catastrophic fire, because past timber management, livestock grazing, and fire suppression have resulted in changes in forest structure and composition that increase the risk of catastrophic fire. Other potential threats include increases in predation, adverse weather, recreation, mining, grazing, and road construction.

Q. What is the history of today's action?

On April 3, 2000, the Fish and Wildlife Service received a petition from the Sierra Nevada Forest Protection Campaign and 14 other organizations to list the California

spotted owl as threatened or endangered and designate critical habitat. FWS published a positive initial review, known as a 90-day finding, on this petition on October 12, 2000, and a negative 12-month finding on February 14, 2003. On May 11, 2004, the petitioners filed suit in Federal District Court for the Northern District of California alleging that the 12-month finding violated the Act and the Administrative Procedure Act.

On September 1, 2004, the Service received an updated petition from the Center for Biological Diversity, Sierra Nevada Forest Protection Campaign, and six other organizations to list the California spotted owl as threatened or endangered and to designate critical habitat. In view of the new petition, on March 8, 2005 the court issued an order requiring the parties to show cause why the litigation should not be stayed pending the Service's action on the new petition. In response, on March 14, 2005 the Service submitted a declaration to the court stating dates by which it proposed to complete the 90-day and 12-month findings. On March 17, 2005, the court granted a 90-day stay in the proceedings of the case pending the Service's consideration of the updated petition, and directed the Service to report to the court by June 13, 2005 concerning the status of its review of the new petition. The Service filed a report with the court on Monday (June 13), indicating that the 90-day finding has been made. Parties in the case have until June 23, 2005 to file responses to today's filing. A hearing on the challenge to the 2003 finding is scheduled for June 30. The Service has said it will complete a 12-month finding by March 14, 2006.

Q. What is the process spelled out in the Endangered Species Act for evaluating petitions to list a species?

The Act requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial information indicating that the petitioned action may be warranted. This finding is based on information contained in the petition, supporting information submitted with the petition, and information otherwise available to the Service at the time of the finding. To the maximum extent practicable, the Service makes this finding within 90 days of the receipt of the petition and publishes this 90-day finding promptly in the Federal Register. If the Service finds that substantial information was presented, it commences a review of the status of the involved species which is to be completed, to the maximum extent practicable, within 12 months of receipt of the petition. In this 12-month finding, the Service determines whether listing is warranted.

Q. What led the Service to come to a different conclusion in this 90-day finding from the conclusion it came to in 2003 when it rejected a similar petition?

Some of the information is not substantially different from that considered in the 2003 review, specifically, the information presented about the threats from past logging, livestock grazing, urban development and recreation. Each of these issues was addressed in the February 14, 2003, 12-month finding.

What is different in this review are changes that have occurred in the past two years that may affect the status and distribution of the California spotted owl or change our understanding of possible declines in population. Specifically these are: 1) further range

expansion of the barred owl, 2) impacts of recent fires and anticipated future fires in California spotted owl habitat, 3) revisions to the 2001 Sierra Nevada Forest Plan Amendment, 4) revisions to the California State Forest Practices Code, 5) possible changes in the draft meta-analysis of California spotted owl population dynamics by Alan B. Franklin, and 15 others in a 2004 analysis of its population dynamics. All of these changes will be reviewed in the next phase of analysis.

Q. What is the significance of the barred owl relative to the California spotted owl?

As stated in the petition, barred owls are larger and more aggressive than spotted owls. They have been known to hybridize with spotted owls and also take over spotted owl territories. During the past two years the known range of barred owls has expanded 200 miles southward in the Sierra Nevada, including two hybrid spotted/barred owls in the Eldorado National Forest and a male barred owl in Kings Canyon National Park. Other information in our files shows that barred owls physically attack and possibly kill northern spotted owls, as well as negatively affecting northern spotted owl site occupancy, reproduction, and survival.

Q. What will happen after the 12-month review is completed?

Based on the status review, the Service will make one of three possible determinations:

- 1) Listing is not warranted, in which case no further action will be taken.
- 2) Listing as threatened or endangered is warranted. The Service then will publish a proposal to list, solicit independent scientific peer review of the proposal, seek input from the public, and consider the input before a final decision about listing the species is made.
- 3) Listing is warranted but precluded by other, higher priority activities. This means the species is added to the Federal list of candidate species, and the proposal to list is deferred while the Service works on listing proposals for other species that are at greater risk. A warranted but precluded finding requires subsequent annual reviews of the finding until such time as either a listing proposal is published, or a not warranted finding is made based on new information.

More questions? Write or call:

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