

From: [Shoemaker, Justin](#)
To: [Grizzle, Betty](#); [Caitlin Snyder](#)
Subject: Fwd: Follow-up on pre-listing efforts
Date: Friday, December 16, 2016 10:36:12 AM

Additional thoughts from Seth on this topic below.

Justin Shoemaker
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From: **Willey, Seth** <seth_willey@fws.gov>
Date: Fri, Dec 16, 2016 at 11:01 AM
Subject: Re: Follow-up on pre-listing efforts
To: "Shoemaker, Justin" <justin_shoemaker@fws.gov>

We are also working with HQ and SOL to develop a "pre-listing 10(j) policy." Michael Young says this is absolutely within our statutory authority and can be done with a "micro revision" to the regulations. That said, its going to take some time. Maricela is the HQ lead. Next step on this one is pulling together a National Team (volunteers from any region whom wants to offer one). If we had had this 3 years ago, we would have wolverine in CO today.

We need to be careful of overselling the prelisting conservation policy as it does not affect S7, CH, nor allow tailored take prohibitions (only 10(j) offers this suit of reliefs). And CCAA is also not allowed on Federal lands, so that is limited. Gaining mitigation credits is not likely enough to affect some states willingness for some high profile species (depending on which one you are considering). But perhaps worth discussing more.

Available to chat.

Seth

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On Fri, Dec 16, 2016 at 9:32 AM, Shoemaker, Justin <justin_shoemaker@fws.gov> wrote:
FYI

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From: **Snyder, Caitlin** <caitlin_snyder@fws.gov>
Date: Fri, Dec 16, 2016 at 10:20 AM
Subject: Follow-up on pre-listing efforts
To: "Grizzle, Betty" <betty_grizzle@fws.gov>, Justin Shoemaker
<justin_shoemaker@fws.gov>

Hi Betty and Justin,

Yesterday you asked whether we had any options for reintroducing a population of a non-listed species and then, after listing, have any assurances that the population would not be treated as a listed species. I took a look at the draft pre-listing policy we published in July 2014. This policy allows a State, landowner, etc. to obtain credits for current conservation efforts benefiting declining species. These conservation credits can be redeemed later or sold to a third party to offset or mitigate detrimental actions to a species if it later gains ESA protection. The pre-listing policy includes "the cooperation either in the introduction of such species into a portion of its historical range where it is absent or in the augmentation of such species in an area where it occurs" as a voluntary pre-listing conservation measure that may be covered by the policy. However, I do not think that a reintroduced population would be treated as a "non-listed" species should the species gain ESA protection.

Here is a link to the draft policy, in case you're interested in taking a look at it.
https://www.fws.gov/endangered/improving_ESA/pdf/2014-17022.pdf

I haven't seen a draft of the final policy, so am not sure how it may differ from the proposed.

The policy has not been finalized yet -- I have heard it is at OMB awaiting review/clearance. I am not sure if it will be published soon, but if/when a final policy is published, it is something we could provide to the States for their consideration.

Hope that helps a bit.

Thanks,
Caitlin

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