

Bull Trout 5-year Review Questions and Answers

April 2008

What action is the Fish and Wildlife Service taking?

The agency is taking no formal action, but has completed an internal review of bull trout status under the Endangered Species Act (Act), as required every five years. During this 5-year Review, the Service assessed the appropriate level of protection for bull trout in the lower 48 U.S. states.

What is the Service's recommendation?

The agency is making two recommendations: Maintain "threatened" status for bull trout as currently listed throughout its range in the coterminous United States for the time being and evaluate whether distinct population segments (DPSs) exist and merit the Endangered Species Act's protection.

Why is the Service going to evaluate whether multiple distinct population segments should be designated?

In 1999, when we listed all bull trout in the lower 48 U.S. states as one distinct population segment we thought the threats to bull trout were generally consistent across the bull trout's range. After more than eight years of additional study, we've learned there are genetic differences among some populations of bull trout and that the health of bull trout populations varies by location, as do the threats facing the fish.

Would there be benefits to designating multiple DPSs?

Evaluating the status of the multiple distinct populations may help the Service account for the variable health of bull trout populations and focus the recovery efforts of states, Native American tribes and others on populations that need recovery. There are four main advantages of designating multiple DPSs of bull trout: (1) We can focus regulatory protection and recovery resources to bull trout populations in trouble; (2) We can remove the regulatory burden of the ESA where its protections are not needed; 3) We can provide more incentives locally to implement recovery actions; and (4) We can analyze effects of projects over a more discrete and biologically relevant area.

What is a 5-year Review?

A 5-year Review is an assessment of a listed species to ensure that it has the appropriate level of protection under the Endangered Species Act. A 5-year Review considers all new available information concerning the population status of the species and the threats it faces. The review considers the best scientific and commercial information that has become available since the original listing determination, such as:

- Species biology, including but not limited to population trends, distribution, abundance, demographics and genetics;
- Habitat conditions, including but not limited to amount, distribution and suitability;
- Conservation measures that have been implemented and benefit the species;
- Threat status and trends;
- Other new information, data or corrections, including but not limited to changes in taxonomy or nomenclature, identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants, and improved analytical methods.

Does the 5-year Review change protections for bull trout?

No. All of the existing protections for bull trout remain in place.

With the recommendation to evaluate whether to designate multiple bull trout DPSs, the Service will evaluate whether multiple DPSs would be most consistent with the Service's DPS policy (<http://www.fws.gov/endangered/policy/Pol005.html>).

If the Service determines that multiple DPSs are warranted, it will prepare a proposal to change the single DPS to more than one DPS and will then determine the status of each DPS (i.e., whether a DPS should be listed as threatened or endangered or whether it should be delisted). Any proposal to change the DPS designation and listing status would undergo a rulemaking process that would include public review.

What does a 5-year Review entail?

A 5-year Review considers information that has become available since the original listing determinations, such as population and demographic trend data; studies of dispersal and habitat use; genetics and species competition investigations; surveys of habitat amount, quality and distribution; adequacy of existing regulatory mechanisms; and management and conservation planning information.

The review also assesses:

- a) If any new information or analysis call into question any of the conclusions in the original listing determination as to the species' classification;
- b) Whether new information suggests that the species' population is increasing, declining, or stable;
- c) Whether existing threats are increasing, the same, reduced or eliminated; and
- d) If there are any new threats.

In addition, the bull trout Distinct Population Segment (DPS) determination will be re-evaluated in accordance with the 1996 DPS policy and the 5-year Review will make a recommendation on this aspect of the listing.

Who is responsible for doing a 5-year Review?

The Secretary of the Interior and the Secretary of Commerce are ultimately responsible for conducting 5-year Reviews of listed species. For bull trout, this responsibility has been delegated to the U.S. Fish and Wildlife Service, with the Snake River Fish & Wildlife Office in Boise as the lead office.

What steps have been completed on the bull trout 5-year Review?

The Fish and Wildlife Service initiated the 5-year Review on the status of bull trout in April 2004. The Service solicited information through an April 13, 2004, Federal Register notice from all interested sources to assist with this review. The Service also met with state fish and wildlife agencies to identify information the states could provide for use in the 5-year Review. Information from various federal agencies also was integrated into the analysis.

The States of Idaho, Montana and Nevada submitted a combined report on the status of bull trout. The state of Idaho submitted a separate population viability analysis that applied only to bull trout within Idaho. The fish and wildlife agencies of Oregon and Washington each submitted reports. We also received comments from the public. The information contained within the various state reports, assessments, and the public comments were provided to the structured decision-making panelists (described below).

The Service also developed its own assessment of the current status of bull trout using a model that ranked risk to bull trout in each of the 121 core areas relative to their vulnerability to extirpation. This assessment provided information that complemented the information provided by the state agencies, public and other interested entities.

The 5-year Review culminated in a report that was completed in August 2006. Pacific Regional Director, Ren Lohofener reviewed the report and identified two additional needs before he released the final report:

- (1) The 5-year Review document needed to make a recommendation relative to the Service's Distinct

Population Segment policy;

(2) Some affected states had outstanding questions and concerns regarding the status review process and how information they provided was used.

What decision-making process was used?

In a meeting on March 7-9, 2005, the Service utilized a structured decision-making model to assess the available information using two panels. The first panel was made up of seven scientists from outside the Service with expertise in different academic disciplines relevant to the 5-year Review. The Science Panel discussed the strengths and weaknesses of the various data, hypotheses and opinions relative to the current status of bull trout, including the various state reports and the status assessment developed by Service staff. This panel addressed only the scientific aspects related to bull trout status and threats to evaluate the risk of extinction to bull trout. A second panel made up of seven Service managers observed and asked questions of the Science Panel. The Managers Panel also participated in policy discussions and considered what should be the appropriate 5-year Review recommendation.

Based on comments received from both the Science and Manager panels Service biologists revised the Service's assessment of bull trout status to provide clarification and include additional key information. The revised version was sent to the Science Panel for review; comments provided by the Science Panel and the revised status assessment were considered at a subsequent April 28-29, 2005, meeting of the Manager Panel. The managers applied their expertise along with Service policies and the ESA to determine whether new information suggested a change in the listing status of bull trout was warranted.

How was the 5-year Review completed?

Ted Koch, a biologist with the Fish and Wildlife Service's Snake River Fish and Wildlife Office in Boise, Idaho, was selected to be the bull trout coordinator, beginning July 2, 2007. He coordinated with FWS regional and field offices within the range of the bull trout and with affected states, tribes and federal agencies to proceed with the 5-year Review process.

Pacific Regional Director Ren Lohofener sent a letter on June 15, 2007, to affected state and federal agencies within the range of the bull trout, asking them to participate in a Bull Trout 5-year Review Collaboration Team to help with completion of the review. Participating agencies included:

- Bureau of Indian Affairs Regional Office, Portland, Oregon
- U.S. Forest Service Regional Office, Portland, Oregon
- Bureau of Land Management state offices - Idaho, Nevada and Oregon
- California Department of Fish and Game
- Idaho Department of Fish and Game
- Montana Fish, Wildlife and Parks
- Nevada Department of Wildlife
- Washington Department of Fish & Wildlife
- Oregon Department of Fish & Wildlife

With help from the Collaboration Team, the Service completed the 5-year Review with support for the two recommendations.

How have Tribes been engaged in the bull trout 5-year Review process?

The Bureau of Indian Affairs is participating in the Collaboration Team. Service Field Offices contacted all Tribes within the range of bull trout. All Tribes were invited to participate in the review process. The Kalispell Tribe is currently an active participant in the bull trout Collaboration Team.

What is a Distinct Population Segment?

A Distinct Population Segment (DPS) is a population that makes up a portion of a species' or subspecies' population or range. For a population to be listed under the ESA as a Distinct Population Segment, three

elements are considered:

- (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs;
- (2) The significance of the population segment to the species to which it belongs; and
- (3) The population segment's conservation status in relation to the ESA's standards for listing (i.e., is the population segment endangered or threatened?).

How does the Service determine whether a species is endangered or threatened?

Under the ESA, the term "endangered species" means any species that is in danger of extinction throughout all or a significant portion of its range. The term "threatened species" means any species that is at risk of becoming an endangered species within the foreseeable future throughout all or a significant portion of its range.

Section 4(a)(1) of the ESA establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

- (a) The present or threatened destruction, modification or curtailment of its habitat or range;
- (b) Over-utilization for commercial, recreational, scientific or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence.

The Service's assessment of these factors is required, under section 4(b)(1) of the ESA, to be based on the best scientific and commercial data available.

What is the status of recovery planning for bull trout?

Draft recovery plans were published in November 2002 for bull trout in the Columbia, Klamath and St. Mary-Belly River (Montana) watersheds and in July 2004 for bull trout in the Coastal/Puget Sound watersheds of Washington and the Jarbidge River watershed in Nevada.

Recovery plans and other information related to bull trout are available at: <http://www.fws.gov/pacific/bulltrout/>

Final recovery planning for bull trout has been on hold pending completion of the 5-year Review.

What is the status of the Service's critical habitat designation for bull trout?

The Service's critical habitat designation for bull trout was published in the Federal Register on September 26, 2005.

The designation is being challenged in a lawsuit filed by the Alliance for the Wild Rockies and Friends of the Wild Swan. Oral arguments were made April 27, 2007, before U.S. District Judge Robert Jones and a decision by the judge is pending.

How can I get more information about the bull trout 5-year Review?

For more information, please contact Ted Koch, Bull Trout Coordinator, Snake River Fish and Wildlife Office 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709, (208) 378-5293, ted_koch@fws.gov