



Questions and Answers: 12-month Finding For the Cactus Ferruginous Pygmy-owl

Arizona Ecological Services Field Office

www.fws.gov/southwest/es/arizona/

For Release: Oct. 4, 2011

Contacts: Jeff Humphrey 602-242-0210 ext. 222
Scott Richardson 520-670-6150 ext. 242

Q: What is the cactus ferruginous pygmy-owl?

A: The cactus ferruginous pygmy-owl is a small, reddish-brown bird with a cream-colored belly streaked with reddish-brown, and a long tail. Pygmy-owls average 2.2 ounces and are approximately 6.75 inches long. The eyes are yellow, the crown is lightly streaked, and there are no ear tufts. Paired black spots on the back of the head resemble “eyes”. Their diet includes lizards, birds, insects, and small mammals.

Q: What is the Service’s “12-month finding” on the petition to list the cactus ferruginous pygmy-owl?

A: We have completed a status review and developed a 12-month finding for the cactus ferruginous pygmy-owl and have determined that listing as threatened or endangered under the Endangered Species Act (ESA) is not warranted at this time. The status review thoroughly analyzed all currently available taxonomic, distribution, and threats information. We found that the pygmy-owl is not in danger of extinction now, nor is it likely to become endangered within the foreseeable future, throughout all or any significant portion of its range.

Q: What is a “12-month finding” for listing as endangered or threatened, how does the Service arrive at a listing determination?

A: If a petition to list a species as threatened or endangered presents substantial information – as is the case for the pygmy-owl petition – we initiate a 12-month status review of the species to determine whether to propose adding the species to the Federal lists of endangered and threatened wildlife and plants.

Based on the status review, we 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. In this case, the Service 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. In general, there is a one-year period between the time a species listing is proposed and the final decision.
- 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.

Q: Wasn't the cactus ferruginous pygmy-owl previously protected under the Endangered Species Act?

A: Only the Arizona population of the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) was previously protected under the Endangered Species Act. Utilizing the best information available in 1997, the Service added the Arizona pygmy-owl population to the federal endangered species list, under the Distinct Population Segment policy. In 2003, the Ninth Circuit Court of Appeals ruled that the Arizona pygmy-owl population was discrete, but found that the Service did not articulate a rational basis for finding that the Arizona pygmy-owl population was significant to the taxon. Subsequently, the Service found that the Arizona population of the pygmy-owl does not contribute significantly to the species as a whole as recognized in the 1997 listing. Following public comment, the Service removed the Arizona pygmy-owl population from the list of threatened and endangered wildlife on April 14, 2006. However, the issues and information considered in the delisting process were constrained by the opinion of the Ninth Circuit, and were different than the scope of the information and the analysis that we used in this 12-month finding.

Q: Did the present 12-month finding for Endangered Species Act protection for cactus ferruginous pygmy-owl evaluate the same population that was listed from 1997-2006?

A: The petition that initiated this 12-month finding was submitted in 2007 by Defenders of Wildlife and the Center for Biological Diversity. The petition presented new genetic, taxonomic and threats information that was not available, or not within the scope of analysis, when the Arizona population of the pygmy-owl was previously listed in 1997 and subsequently delisted in 2006. The petition relied largely on the recently proposed scientific reclassification of the pygmy-owl that recognizes the cactus ferruginous pygmy-owl subspecies (*Glaucidium ridgwayi cactorum*) (one of two pygmy-owl subspecies proposed within the *ridgwayi* species) in southern Arizona, and Sonora and Sinaloa, Mexico as distinct, and defined by a smaller range than the subspecies recognized in 1997. The petition sought to list either the entire newly reclassified subspecies (throughout its range in Arizona and Mexico), or the Sonoran Desert or the Arizona distinct population segments. Our 90-day review of the petition indicated that it presented substantial information that listing the entire subspecies may be warranted.

Q: Did the Service use the taxonomic revisions presented in the petition when determining whether to list the pygmy-owl?

A: The central issue of the current petition, and one for which we sought the expertise of avian taxonomists to help us resolve, was the proposed change in the taxonomy of the pygmy-owl to *Glaucidium ridgwayi cactorum*. The acceptance or rejection of the proposed taxonomy defined the taxon and its associated range, which we used to determine the species' status and the substantiality of the information provided by the petitioners on whether listing under the Act was warranted. We found that the petitioners provided reliable and substantial scientific information that a taxonomic revision may be warranted, and we focused specifically on this issue during our subsequent status review.

Scientific literature suggests that the taxonomy of the pygmy-owl has been ever-changing, and still requires considerable investigation and additional information. The use of genetics and other characteristics to clarify pygmy-owl taxonomy may provide the basis for taxonomic revision. Previous taxonomic information and publications related to the pygmy-owl did not have the benefit of current techniques that allow a more detailed analysis of genetic material. However, current genetic studies of pygmy-owl taxonomy often lack adequate samples from throughout the range of the pygmy-owl.

The Service solicited and evaluated additional information and determined, supported by peer review, that there is a lack of compelling data to revise the taxonomy of the pygmy-owl.

Q: Did the Service evaluate the currently recognized taxon of the cactus ferruginous pygmy-owl in the 12-month finding?

A: Yes. An evaluation of the currently-accepted taxon of the cactus ferruginous pygmy-owl found that, while threats to pygmy-owls may be substantial in local populations, threats throughout the majority of the pygmy-owl's range are not of sufficient imminence, severity, or magnitude to indicate that the pygmy-owl is in danger of extinction (endangered), or likely to become endangered within the foreseeable future (threatened), throughout all of its range.

The detailed information we have on impacts covers only about 27 percent of the pygmy-owl's range. For this area, which includes Arizona and Texas in the United States, and Sonora and northern Sinaloa in Mexico, information describing the impacts to pygmy-owls was relatively complete. For the remaining 73 percent of the pygmy-owl range in Mexico, information regarding pygmy-owl population status and the impacts of threats to pygmy-owls was relatively sparse. The best available scientific and commercial information indicates that the impacts to pygmy-owls in the northern portion of their range are substantial. However, the best available information indicates that pygmy-owls in the southern portion of their range remain common and that some of the threats that are severe in the northern portion of the species' range appear to be less severe or non-existent in the southern portion. Thus we conclude that pygmy owls are not threatened throughout their range, or likely to become so.

Q: Did the Service evaluate other potential “distinct population segments” and other potentially listable configurations of the cactus ferruginous pygmy-owl in the 12-month finding?

A: Yes. We evaluated pygmy-owl populations in Arizona and the Sonoran Desert, as well as eastern, western and Texas configurations – none of these met the current Distinct Population Segment (DPS) policy. Additionally, our evaluations of significant portions of the entire range (SPR) of the pygmy-owl concluded that no portion of the pygmy-owl's range was threatened such that extirpation of that portion of the range would lead to the extinction of the remaining portion of the range.

Q: Is the cactus ferruginous pygmy-owl presently protected?

A: The pygmy-owl is protected in the United States pursuant to the Migratory Bird Treaty Act. This law prohibits the taking (killing, pursuit or harassment) of the pygmy-owl or the possession of its parts (feathers, eggs, etc.) It does not address habitat. Similarly, Arizona State law provides protections for individual owls, but does not provide any specific protections for pygmy-owl habitat.

Q: Where are cactus ferruginous pygmy-owls found in the United States?

A: Historically occurring throughout much of south and central Arizona, including the Phoenix and Tucson areas, pygmy-owls are now found at Organ Pipe Cactus National Monument, the Altar Valley, south-central Pinal County, and the Tohono O'odham Nation lands. Under the original taxonomy, pygmy-owls found in southern Texas were also classified as the *cactorum* subspecies. The recently proposed taxonomy classifies the pygmy-owls in Texas as a different subspecies.