

[Red + *Italic* = *Directions (to be deleted as PRF is complete)*; Highlighted = Insert Something;
Highlighted = To be inserted by batching biologist; Examples]

Federal Docket No. FWS-XX-ES-201X-XXXX

90-DAY FINDING ON A PETITION TO PETITION TITLE

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)).

Petition History

On date, we received a petition dated date, from petitioner(s), requesting that species common name(s) be [listed/ reclassified/emergency listed as threatened or endangered and if applicable critical habitat be designated for this/these species] or [delisted due to recovery/extinction/error in information] under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). [If petitioner requests emergency listing: Because the Act does not provide for petitions to emergency list, we are considering it as a petition to list [species]. However, we did consider the immediacy of possible threats to the species and whether emergency listing may be necessary at this time. We reviewed the information presented in the petition and did not find that the petition warranted an emergency listing.] This finding addresses the petition.

On November 15, 2013, we received a petition from the Animal Welfare Institute requesting that we emergency list the pygmy three-toed sloth as endangered under the Act. The petition clearly identified itself as such and included the identification information for the petitioner required by 50 CFR 424.14(a). Because the Act does not provide for petitions to emergency list, we are considering it as a petition to list. However, we did consider the immediacy of possible threats to the species and whether emergency listing may be necessary at this time. We reviewed the information presented in the petition and did not find that the species warranted an emergency listing. This finding addresses the petition.

Evaluation of a Petition to List/Delist/Reclassify the Species [for listing: as an Endangered or Threatened Species for reclassifying: as a(n) Endangered/Threatened Species] Under the Act

Evaluation of a Petition to Reclassify the Northern Spotted Owl as an Endangered Species Under the Act

Evaluation of a Petition to Delist the Golden Conure Under the Act

When citation lists are provided, the use of the “+” sign to string a series of citations together indicates that the information in these citations, when combined, provide substantial information.

Species and Range See Listable Entity Evaluation section of the Guidance.

Does the petition identify an entity that may be eligible for [listing/ reclassifying/removal from listing (delisting)] (i.e., is the entity a species, subspecies, or DPS)?

☐ Yes

☐ No

*If yes, list common name (scientific name); and describe the current and historical range of the species. In describing the range of the species, consider both the presumed and probable current and historical ranges of the species. This should include areas where the species formerly occurred as well as areas where there is a reasonable probability the species could be found. (Do not include areas where it is highly unlikely the species occurs or ever occurred there. In other words, use your best professional judgment.) Use simple descriptions such as states, countries, or continents. For DPSs, use the following format: common name (population of [scientific name]); DPS range. Under Discreteness and Significance headings, provide citations for the substantial information provided by the petitioner indicating that the petitioned entity may meet these elements of a DPS. If no, please explain. And then proceed to the **Petition Finding** section and the remaining sections to complete the Petition Review Form.*

White-necked crow (*Corvus leucognaphalus*);
Historical range: Hispaniola (Haiti and Dominican Republic) and Puerto Rico
Current range: Hispaniola (Haiti and Dominican Republic)

Santa Cruz cypress (*Hesperocyparis abramsiana*)
Historical range: Santa Cruz and San Mateo counties, California
Current range: Santa Cruz and San Mateo counties, California

DPS:
North American wild horse (population of *Equus caballus*); U.S. Federal public lands

Discreteness

- Snyder 2004, pp 14-15
- Dallas *et al.* 2009, p. 451

Significance

- Berry 2010, p. 137

Information in the Petition Use one of the following three templates. See Information Considered in Making a 90-day Petition Finding and Petition Finding sections of the Guidance

*I. For petitions to **delist** due to **extinction**, use the following template:*

1. Do the sources cited in the petition provide substantial information indicating the entity may warrant delisting due to extinction?

☐ Yes

☐ No

If yes, list the citations with page numbers. Use bullets to list citations. If no, please explain. Include a concluding statement.

- Collins *et al.* 2010, p. 571
- Hatcher 2008, pp 291-293

- a. Provide additional comments, if any.

*Proceed to the **Petition Finding** section and the remaining sections to complete the Petition Review Form.*

II. For petitions to delist because an error in information indicates the entity is not a valid entity, use the following template:

1. Do the sources cited in the petition provide substantial information indicating the entity may warrant delisting due to an error in information that indicates the entity is not a valid entity?

☐ Yes

☐ No

If yes, list the citations with page numbers. Use bullets to list citations. If no, please explain. Include a concluding statement.

- Foust 2014, pp. 678-679
- Snow *et al.* 2013, p. 14

- a. Provide additional comments, if any.

*Proceed to the **Petition Finding** section and the remaining sections to complete the Petition Review Form.*

III. For petitions to list, reclassify, or delist due to recovery or new information/error in original information use the following template:

Present or threatened destruction, modification or curtailment of the species habitat or range

1. Does the petitioner claim the entity warrants [listing/delisting/reclassifying] based on the present or threatened destruction, modification or curtailment of the species habitat or range (Factor A)?

☐ Yes

☐ No

- a. If the answer to 1 is yes:

Identify the activity(ies) claimed by the petitioner under present or threatened destruction, modification or curtailment of the species habitat or range to [be a

threat such that [listing/reclassification] *or* [not be a threat such that delisting/reclassification] may be warranted.

- Logging
- Agriculture

b. If the answer to 1 is yes:

Do the sources cited in the petition provide substantial information to support the claim? *If some activities contain substantial information and others do not, mark both Yes and No.*

☐ Yes

☐ No

If yes, indicate for which activity(ies) present or threatened destruction, modification or curtailment of the species habitat or range (e.g., logging, agriculture, overgrazing, etc.) the petitioner claims may be a threat and list the citations with page numbers for each purpose. Use bullets to list citations. If no, please indicate for which activity(ies) and explain. Include a concluding statement.

Logging

- Smith 2013, pp. 219, 427
- Johnson *et al.* 1999, p. 310

Agriculture

The petitioner claims that this species has been extirpated from, or has greatly declined in, some areas as a result of urbanization or conversion of habitat to agricultural uses. Some populations can persist in areas with minor disturbance and in nearby undisturbed habitats, however, habitat loss threatens to severely fragment remaining populations.

While Hammerson (2007, unpaginated) confirms that the species has been extirpated from, or has greatly declined, in some areas due to urbanization and conversion for agricultural use, Hammerson also states that the species exists in moderately or heavily disturbed areas (e.g., around buildings in parks and rural landfills) and that the distribution is probably not fragmented at the moment. Furthermore, because the species has good reproductive potential, and can tolerate moderate levels of alteration, the species may also be able to survive in relatively small patches of suitable habitat (Hammerson 2007, unpaginated). Hammerson (2007, unpaginated) also indicates that populations in natural areas appear to be stable and the current trend for this species is not well documented.

The petitioner did not provide any information indicating that threats are acting on this species' habitat such that it is threatened by present or threatened destruction, modification or curtailment of its habitat or range. Therefore, we find that the petition does not provide substantial information indicating listing the Colorado checkered whiptail may warrant listing based on Factor A.

c. If the answer to 1 is yes:

Does the petitioner provide substantial information on whether existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] the activity(ies) claimed by the petitioner to [be a threat such that [listing/reclassification] *or* [not be a threat such that delisting/reclassification] may be warranted?

☐ Yes

☐ No

If yes, indicate for which activity(ies) existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] the activity(ies) and list the citations with page numbers for each purpose. Use bullets to list citations. If no, please indicate for which activity(ies) and explain. Include a concluding statement.

- d. Provide additional comments, if any.

Overutilization for commercial, recreational, scientific, or educational purposes

2. Does the petitioner claim the entity warrants [listing/delisting/reclassifying] based on overutilization for commercial, recreational, scientific, or educational purposes (Factor B)?

☐ Yes

☐ No

- a. If the answer to 2 is yes, overutilization for which purposes does the petitioner claim are [a threat such that listing/reclassification] or [not a threat such that delisting/reclassification] may be warranted (check all that apply):

☐ Commercial

☐ Recreational

☐ Scientific

☐ Educational

☐ Other: [Claim by petitioner] *Overutilization for a purpose other than one of the above four categories should be addressed in Factor E)*

- b. If the answer to 2 is yes:

Do the sources cited in the petition provide substantial information to support the claim? *If some purposes contain substantial information and others do not, mark both Yes and No.*

☐ Yes

☐ No

If yes, indicate for which purpose(s) the petitioner claims overutilization may be a threat and list the citations with page numbers for each purpose. Use bullets to list citations. If no, please indicate for which purpose(s) and explain. Include a concluding statement.

Commercial

- Cobra 2011, p. 99

- c. If the answer to 2 is yes:

Does the petitioner provide substantial information on whether existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] the overutilization claimed by the petitioner to [be a threat such that listing/reclassification] or [not be a threat such that delisting/reclassification] may be warranted?

☐ Yes

☐ No

If yes, indicate for which purpose(s) existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] overutilization and list the citations with page numbers for each purpose. Use bullets to list citations. If no, please indicate for which purpose(s) and explain. Include a concluding statement.

d. Provide additional comments, if any.

Disease or predation

3. Does the petitioner claim the entity warrants [listing/delisting/reclassifying] based on disease or predation (Factor C)?

☐ Yes

☐ No

a. If the answer to 3 is yes:

Which does the petitioner claim is [a threat such that listing/reclassification] or [not a threat such that delisting/reclassification] may be warranted (check all that apply)

☐ Disease

☐ Predation

b. If the answer to 3 is yes:

Do the sources cited in the petition provide substantial information to support the claim? *If one contains substantial information and the other does not, mark both Yes and No.*

☐ Yes

☐ No

If yes, indicate which (disease, predation, or both) the petitioner claims may be a threat and list the citations with page numbers for each. Use bullets to list citations. If no, please indicate disease and/or predation and provide an explanation. Include a concluding statement.

Disease

The petitioner claims that the Service, in its 1994 Desert Tortoise Recovery Plan, explicitly concludes that threats to the Egyptian tortoise might also constitute threats to the desert tortoise (*Gopherus agassizii*), as the tortoises are fairly similar, especially regarding habitat preferences. The desert tortoise, native to the United States and Mexico, has experienced increased mortality and population decline due to an upper respiratory tract disease (URTD), predominant in captive-bred individuals, being introduced to wild individuals. The petitioner further claims that it is safe to assume that this respiratory disease might also constitute a threat to the Egyptian tortoise, especially if individuals bred in captivity are released into the wild. Information cited by the petitioner does not make any statements or conclusions regarding the Egyptian tortoise and URTD. Although the petitioner's claim that if captive-bred Egyptian tortoises are released into the wild URTD might also constitute a threat is logical, yet no information was submitted indicating that URTD occurs in captive Egyptian tortoises and currently or potentially poses a threat to wild Egyptian tortoises. Therefore, we find this information to be not substantial.

Predation

- McGrath 2011, p. 1
- Perälä 2006, p. 62, 63
- Fish and Wildlife Service 1994a, p. D10, D15, D 34

- c. If the answer to 3 is yes:

Does the petitioner provide substantial information on whether existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] disease and/or predation claimed by the petitioner to [be a threat such that listing/reclassification] *or* [not be a threat such that delisting/reclassification] may be warranted?

☐ Yes

☐ No

If yes, indicate disease and/or predation, and list the citations with page numbers. Use bullets to list citations. If no, please indicate disease and/or predation and explain. Include a concluding statement.

- d. Provide additional comments, if any.

Other natural or manmade factors

4. Does the petitioner claim the entity warrants [listing/delisting/reclassifying] based on other natural or manmade factors affecting its continued existence (Factor E)?

☐ Yes

☐ No

- a. If the answer to 4 is yes:

Identify the other natural or manmade factors claimed by the petitioner to [be a threat such that listing/reclassification] *or* [not be a threat such that delisting/reclassification] may be warranted.

- Climate change
- Road mortality
- Small population dynamics

- b. If the answer to 4 is yes:

Do the sources cited in the petition provide substantial information to support the claim? *If some factors to contain substantial information and others do not, mark both Yes and No.*

☐ Yes

☐ No

If yes, indicate for which other natural or manmade factors (e.g., climate change, road mortality, or small population dynamics) the petitioner claims may be a threat and list the citations with page numbers for each factor. Use bullets to list

citations. If no, please indicate for which factor(s) and explain. Include a concluding statement.

Climate Change

- Aubrey 2012, p. 55
- Camper 2000, p. 85

Road Mortality

- Evans 2005, pp. 187, 192

Small Population Dynamics

- Soule 1997, p. 23

- c. If the answer to 4 is yes:

Does the petitioner provide substantial information on whether existing regulatory mechanisms or conservation efforts [exacerbate/ameliorate] other natural or manmade factors claimed by the petitioner to [be a threat such that listing/reclassification] or [not be a threat such that delisting/reclassification] may be warranted?

☐ Yes

☐ No

If yes, indicate which natural or manmade factors are [exacerbated/ameliorated] by existing regulatory mechanisms or conservation efforts and list the citations with page numbers for each purpose. Use bullets to list citations. If no, please indicate for which factor(s) and explain. Include a concluding statement.

- d. Provide additional comments, if any.

Cumulative Effects

5. Does the petitioner claim that the threats they have identified may have synergistic or cumulative effects such that the entity may warrant [listing/delisting/reclassifying]?

☐ Yes

☐ No

- a. If the answer to 5 is yes:

Do the sources cited in the petition provide substantial information to support the claim?

☐ Yes

☐ No

If yes, indicate which threats the petitioner claims may have synergistic or cumulative effects and list the citations with page numbers. Use bullets to list citations. If no, please indicate which threats the petitioner claims may have synergistic or cumulative effects and explain. Include a concluding statement.

b. Provide additional comments, if any.

*Proceed to the **Petition Finding** section and the remaining sections to complete the Petition Review Form.*

Petition Finding *See Petition Finding section of the Guidance*

Select one, delete the others.

Based on our review of the petition, sources cited in the petition, and information in our files, we find that the petitioned entity is not a listable entity under the Act. *For Petitions that do not provide information indicating the entity may qualify as a DPS:* Based on our review of the petition, sources cited in the petition, and information in our files, we find that the petition does not provide substantial scientific or commercial information indicating that the petitioned entity may qualify as a DPS and, therefore, a listable entity under the Act.

Based on our review of the petition, sources cited in the petition, and information in our files we find that the petition does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted.

Based on our review of the petition, sources cited in the petition, and information in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the **species common name (Scientific name)** *[for listing, reclassification, or delisting due to recovery]* based on factors **[from above (e.g., A, B, and E)]**.

Specific Requests for Information *Only include information specific to the species/not included in FR notice template language. See Soliciting Information as a Result of a Substantial 90-day Finding section of the Guidance. If none, indicate that below.*

Information on the straight-horned markhor subspecies for the purpose of determining if the markhor in the Torgar Hills constitutes a distinct vertebrate population segment (DPS).

Author

The primary authors of this notice are the staff members of the **Appropriate Office or Program**, U.S. Fish and Wildlife Service.

FOR FURTHER INFORMATION CONTACT: **Name**, **Office**, telephone **xxx-xxx-xxxx**

Regional Outreach Contact: **Name**, telephone **xxx-xxx-xxxx**

Date: _____

Regional Director Name

Regional Director, **Region Name**,
U.S. Fish and Wildlife Service

For Foreign Species/Domestic Species completed in HQ

Gary Frazer,
Assistant Director for Ecological Services
U.S. Fish and Wildlife Service

For not-substantial findings

Daniel M. Ashe,
Director, U.S. Fish and Wildlife Service

References *See Appendix G for format*