



**Susan
Jacobsen/RO/R2/FWS/DOI**

11/18/2004 03:32 PM


To: Michelle Morgan/ARL/R9/FWS/DOI@FWS

Chris Nolin/ARL/R9/FWS/DOI@FWS, Diane

cc: Lynch/R5/FWS/DOI@FWS, Douglas

Krofta/ARL/R9/FWS/DOI@FWS, Jody G

bcc:

Subject: Re: briefing statement regarding petition to recognize the southwestern desert nesting bald eagle as a distinct population segment list the population as endangered and designate critical habitat 

I provided Stuart/Bryan with a cover note to provide additional background and attached it to Steve's bp. However, Bryan has been out and we haven't been able to discuss it. Can you let me know what your concerns are and I can bring them up when we do discuss it next week. Thanks,sj
Michelle Morgan



Michelle Morgan

11/18/2004 09:34 AM


To: Susan Jacobsen/RO/R2/FWS/DOI@FWS

cc: Chris Nolin/ARL/R9/FWS/DOI@FWS, Diane

Lynch/R5/FWS/DOI@FWS, Douglas Krofta/ARL/R9/FWS/DOI@FWS,

Jody G Millar/R3/FWS/DOI@FWS, Martin Miller/R5/FWS/DOI@FWS,

Mary Klee/ARL/R9/FWS/DOI@FWS

Subject: Re: briefing statement regarding petition to recognize the southwestern desert nesting bald eagle as a distinct population segment list the population as endangered and designate critical habitat 

Susan, I think we have some concerns regarding the recommendation. Have you briefed Bryan, Stuart and Dale on this yet?

Michelle Morgan
U.S. Fish and Wildlife Service
Endangered Species Program
Chief, Branch of Recovery and Delisting
Arlington, Virginia
(703) 358-2492 / Fax (703) 358-1735

Susan Jacobsen



Susan Jacobsen

11/15/2004 03:48 PM

To: Douglas Krofta/ARL/R9/FWS/DOI@FWS, Michelle

Morgan/ARL/R9/FWS/DOI@FWS, Mary Klee/ARL/R9/FWS/DOI@FWS

cc: Chris Nolin/ARL/R9/FWS/DOI@FWS, Jody G

Millar/R3/FWS/DOI@FWS, Diane Lynch/R5/FWS/DOI@FWS, Martin

Miller/R5/FWS/DOI@FWS

Subject: briefing statement regarding petition to recognize the southwestern desert nesting bald eagle as a distinct population segment list the population as endangered and designate critical habitat

Hi Doug/Michelle, here's the paper that the FO put together to address the scope of the petition, as we discussed last week. I'll be providing a copy to Stuart and Bryan to review before we bring it up with Dale. Please feel free to provide input on it. I agree with Steve's recommendation.

sj

----- Forwarded by Susan Jacobsen/RO/R2/FWS/DOI on 11/15/2004 01:44 PM -----



Cathy Gordon

11/12/2004 04:19 PM

To: Susan Jacobsen/RO/R2/FWS/DOI@FWS

cc: Mary Richardson/R2/FWS/DOI@FWS, Steve



Spangle/R2/FWS/DOI@FWS
Subject: breifing statement regarding petition to recognize the southwestern
desert nesting bald eagle as a distinct population segment list the
population as endangered and designate critical habitat



Please see the attached memo and attachment. If you have any questions, please contact Mary Richardson at (602) 242-0210 x242. Please note, hard copy will be put in the regular mail today to your attention.



Cover_Memo_Briefing_Stmt.doc



90-Day_Briefing_Statement1.doc

Cathy Gordon (USFWS Automated Office Assistant)

BRIEFING STATEMENT**DATE:** November 12, 2004**STATE:** AZ**BRIEFING FOR THE REGIONAL DIRECTOR****PREPARED BY:** Steve Spangle, Field Supervisor, Arizona Ecological Services Office**SUBJECT:** Petition to Recognize the Southwestern Desert Nesting Bald Eagle (*Haliaeetus leucocephalus*) as a Distinct Population Segment, List the Population as Endangered, and Designate Critical Habitat

PURPOSE OF THE BRIEFING: This issue is complicated by the current delisting process for the species range-wide. It is important that we make decisions on how to process this petition prior to going forward with a delisting action. While there are many issues to resolve, the initial one involves the geographic delineation of the petitioned entity, which is the subject of this briefing.

BACKGROUND: The Arizona Ecological Services Office (AESO) received the subject petition from the Center for Biological Diversity, Dr. Robin Silver, the Maricopa Audubon Society, and the Arizona Audubon Council on October 6, 2004. The petition is lengthy, providing a detailed discussion on the proponents' recommendations to: 1) recognize the "southwestern desert nesting bald eagle" population as a distinct population segment; 2) reclassify the population as endangered; and 3) designate critical habitat for the population. Your office provided a 30-day letter to the petitioners on October 28, 2004, indicating that the petition is considered complete according to 50 C.F.R. § 424.14.

ISSUE: In evaluating the petition, we found that it does not provide a clear definition of the population that the petitioners would like to see considered as the "southwestern desert nesting bald eagle". The petition describes the population in a geographic context, and indicates that "...the habitat essential for the conservation of the Desert Nesting Bald Eagle consists of upper and lower Sonoran desert riparian habitat throughout the Colorado Plateau, Central Arizona, Western New Mexico, and Northern Mexico." This definition is unclear in that upper and lower Sonoran desert is found only in Arizona and Sonora, Mexico, and does not include portions of the Colorado Plateau or Western New Mexico.

As you are aware, a "not substantial" finding is reasonable when either the prospective listing of a petitioned species has weak or incomplete support in the submitted data, or when the entity petitioned for listing does not meet the definition of "species" under section 3(15) of the Endangered Species Act. That definition states that "species" "...includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species or vertebrate fish or wildlife which interbreeds when mature." Because the geographic extent of the petitioned entity is unclearly described, we cannot make a determination as to whether the definition of "species" is met.

OPTIONS:

At this time, we need to determine a preferred course of action for proceeding with the 90-day evaluation of the petition. Internal discussions (see coordination list below) have resulted in identification of the following options:

1. Contact the petitioners to clarify the intended area of inclusion, thereby determining what they wish to be considered as a distinct vertebrate population. This would allow us to move forward with our analyses of the discreteness, significance, and, if appropriate, status of the petitioned entity.
2. Notify the petitioner that their petition has been determined to be “not substantial”, as the entity identified for recognition as a distinct vertebrate population is poorly defined. This option would conclude Service review of the petition at this time, but would likely only delay the substantive 90-day review as the petitioners would likely clarify and promptly re-submit their petition.
3. Act independently to determine the entity that the petitioners were attempting to identify, and proceed with the substantive 90-day evaluation. This would allow the FWS to move forward immediately. However, in the event that we misinterpret the petitioners’ intentions, we would have to complete corrections or further analysis in the future.

RECOMMENDATION: We recommend that we contact the petitioners and request that they clarify the geographic extent of the petitioned action. Once that is accomplished, the AESO will analyze the issues raised and provide you a discussion paper of further recommendations.

USFWS CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Office, Phoenix, Arizona Work Phone: 602/242-0210

COORDINATION TO DATE:

Region II - Susan Jacobsen

Region III – Jody Millar

Region V – Diane Lynch, Martin Miller

Region IX – Doug Krofta, Mary Klee, Michelle Morgan (in consultation with Solicitor Ben Jessup)

United States Department of the Interior
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 FAX: (602) 242-2513

In Reply Refer To:

AESO/SE

November 12, 2004

Email Transmission
Memorandum

To: Assistant Regional Director, Fish and Wildlife Service, Albuquerque, New Mexico
(ARD-ES) (Attn: Susan Jacobsen)

From: Field Supervisor

Subject: Briefing Statement Regarding Petition to Recognize the Southwestern Desert Nesting
Bald Eagle (*Haliaeetus leucocephalus*) as a Distinct Population Segment, List the
Population as Endangered, and Designate Critical Habitat

Attached is the subject briefing statement for your review and transmittal to the Regional
Director. Once approved, I believe we should share the document with the persons listed at the
end of the briefing statement.

/s/ Steven L. Spangle

Attachment

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