



**Maricela  
Constantino/CBFO/R5/FWS/D  
OI**

07/13/2006 02:54 PM

To Douglas Krofta/ARL/R9/FWS/DOI@FWS  
cc  
bcc  
Subject Sonoran desert BE population BS

Doug,

I've attached my marked up version of the BP. Have I captured what we discussed in yesterdays call?



S\W eagle 90-d bp \W\Oedits2.doc

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DATE: ~~April 14~~July 13, 2006

STATE: AZ

## **BRIEFING FOR THE DIRECTOR**

**PREPARED BY:** Steve Spangle, Field Supervisor, Arizona Ecological Services Office

**SUBJECT:** Petition for the ~~Southwestern~~Sonoran Desert Population of the Bald Eagle (*Haliaeetus leucocephalus*)

**BACKGROUND:** On October 6, 2004, the Arizona Ecological Services Office (AESO) received the above- referenced petition from the Center for Biological Diversity (CBD) to list the “Southwestern Desert Nesting Bald Eagle” (hereafter southwestern population) as endangered with critical habitat. Upon reviewing the petition and conferring with the AESO, the Regional Office requested that CBD clarify the geographic extent of the population to be analyzed for consideration as a Distinct Population Segment (DPS). CBD provided clarification for the DPS analysis from CBD on March 9, 2005. We were unable to work on the 90-day finding during fiscal year 2005 due to court-ordered deadlines for other listing actions and budget limitations. On January 19, 2006, the AESO received a copy of the Notice of Intent (NOI) to sue for failure to issue a 90-day or a 12-month finding on the petition. On March 27, 2006, the CBD and Maricopa County Audubon Society filed a complaint in the District Court of Arizona.

**—PETITION INFORMATION:** The CBD petition raised three areas for analysis, including designation of the ~~“Southwestern Desert Nesting Bald Eagle”~~Sonoran desert population of the bald eagle as a DPS, reclassifying that DPS to endangered, and designating critical habitat for the DPS. In order to make a positive finding, we would have to find that the petition presents substantial information that the ~~southwest~~Sonoran desert population is (1) discrete, (2) significant, and (3) that the threats to the DPS indicate that listing as endangered may be warranted. ~~Since the petition does not present substantial information to indicate listing as endangered may be warranted, as discussed below, we do not find it necessary to make a finding on the DPS issue.~~

The petition argues that threats to the continued existence of the ~~southwestern~~Sonoran desert population are increasing, requiring reclassification of the ~~southwestern~~Sonoran desert population ~~as to~~ endangered. Grouped by the relevant ~~three out of five~~ listing factors, their arguments are as follows:

**Present or Threatened Destruction, Modification, or Curtailment of the Species’ Habitat or Range.** Human populations within the proposed DPS are expected to double over the next 30 years. This growth will result in continued housing and infrastructure development, as well as increased water needs.

**Inadequacy of Existing Regulatory Mechanisms.** The petitioners claim that the Service authorized excessive take of bald eagles through section 7 consultations and has reduced protections afforded to the species under the ESA by downlisting to threatened. In addition, this population is dependent on intensive human support and management (e.g., Arizona Bald Eagle Nestwatch Program), which is key in minimizing impacts on breeding birds.

**Other Natural or Manmade Factors Affecting the Species' Continued Existence.** The proposed DPS encompasses a small population which experiences high mortality of multiple life stages. A population viability analysis demonstrated a high risk of extinction for this population within the next 57 to 82 years. Additionally, on-going threats include eggshell thinning, low reproductive rates as compared to other populations, declining native fisheries, and contaminants.

**SERVICE EVALUATION OF THE INFORMATION:** In the July 12, 1995, final rule to reclassify the bald eagle from endangered to threatened, the Service considered whether or not the Southwestern Recovery Region or the central Arizona population of the bald eagle is distinct, and at that time determined it to be part of the same bald eagle population as that of the remaining lower 48 states. As the Service is currently collecting information to prepare the final delisting rule for the bald eagle in the lower 48 states, there may be some uncertainty regarding the DPS issue at this time. Therefore, we have elected not to make a determination regarding the discreteness or significance of a Sonoran desert population in this finding. However, recognizing the level of effort that went into preparing this particular petition, we stepped through a threats analysis for the sake of argument.

~~While this~~The information presented in the petition appears to be reliable.~~appears to be reliable, we question whether there is enough information to reliably predict the effects of these factors on nesting bald eagles.~~ However, while ~~The information presented~~the petition discusses existing threats to bald eagles,~~but~~ it does not identify any threats of which we are not already aware. Furthermore, the petition does not present substantial information to indicate that the existing threats have significantly increased in severity. Thus, the petition does not ~~does not~~provide justification that reclassification of a Sonoran desert population of the bald eagle from threatened to endangered may be warranted. In addition, the proposed rule to delist the bald eagle in the lower 48 states, as well as the February 16, 2006, reopening of the comment period, discuss specifically that the bald eagle in the southwest is exceeding the reclassification goals outlined in the recovery plan.—.

**MAIN DECISION OR MESSAGE:** We believe that the petition ~~does~~<sup>id</sup> not provide substantial information to warrant initiation of a status review for reclassification of the ~~southwestern Sonoran desert~~ population of ~~nesting-desert~~ bald eagles. Therefore, we recommend that the Service make a negative 90-day petition finding.

~~In addition, the 90-day finding is funded this fiscal year, therefore we recommend pursuing a settlement in this case to establish a deadline for the 90-day finding.~~

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