

southern California population that may be fully or partially reproductively isolated from each other are referred to as "subpopulations" in the finding.

The mountain yellow-legged frog (*Rana muscosa*) is a true frog (family Ranidae). The historic range of the mountain yellow-legged frog in the Sierra Nevada was from southern Plumas County to southern Tulare County. The southern California population, isolated from the Sierran population by the Tehachapi Mountains and a distance of about 225 kilometers (km) (140 miles (mi)), consisted of clusters in the San Gabriel, San Bernardino, and San Jacinto mountains, with a southernmost outpost on Mt. Palomar in northern San Diego County now presumed extinct. Prior to the late 1960's, mountain yellow-legged frogs were abundant in southern California stream drainages. However, the southern California population of mountain yellow-legged frog has probably been extirpated from more than 99 percent of its historic range. The petition and accompanying documentation stated that the species qualifies for designation pursuant to the Act due to potential habitat destruction, the inadequacy of existing regulatory mechanisms, and other natural or human-caused factors affecting its continued existence. The petitioners contend natural and human-induced changes in streamflows, land-use practices, intensive recreation, the introduction on nonnative competitors and predators, random events, and the species' presumed sensitivity to increased ultraviolet radiation all contribute to the decline of the population.

The Service has reviewed the petition and other information available in the Service's files. In an initial review of this information, the Service determined that an emergency listing of the southern California population was not warranted. Based upon additional review, the Service believes that the southern California population of the mountain yellow-legged frog is a distinct vertebrate population segment as defined by Service policy (61 FR 4722) and that substantial evidence exists, in light of the precarious nature of most subpopulations, its rapid decline in southern California, and the wide-ranging threats to the remaining individuals and subpopulations, that listing of this population segment as threatened or endangered may be warranted. When the Service makes a positive finding, it also is required to promptly commence a review of the status of the species. Based upon the available and any newly obtained

information, the Service will issue a 12-month finding as required by Section 4(b)(3)(B) of the Act. Though the petitioners also requested that critical habitat be designated for the southern California population of the mountain yellow-legged frog, the 12-month finding will address this issue.

The Service hereby announces its formal review of the species' status pursuant to this 90-day petition finding. The Service requests any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the status of the southern California population of mountain yellow-legged frog. Of particular interest is information regarding (1) the existence and status of additional subpopulations, (2) environmental factors determining distribution, (3) the impact of altered flow regimes, water quality, land-use practices, and recreation on the species, and (4) genetic variability in known subpopulations.

Author

The primary author of this document is Paul J. Barrett, Carlsbad Field Office (see ADDRESSES section above).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*)

Dated: June 27, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Lesser Prairie-Chicken as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to add the lesser prairie-chicken (*Tympanuchus pallidicinctus*) to the List of Threatened and Endangered Wildlife. The Service finds that the petition presents substantial information indicating that

listing the species as threatened may be warranted. The Service initiates a status review and will prepare a 12-month finding.

DATES: The finding announced in this document was made on July 8, 1997. To be considered in the 12-month finding for this petition, information and comments should be submitted to the Service by September 8, 1997.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 222 S. Houston, Suite A, Tulsa, Oklahoma, 74127-8909. The petition finding and supporting data are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jerry Brabander, Field Supervisor (see ADDRESSES section) (telephone 918/581-7458 ext. 224).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is required to promptly commence a review of the status of the involved species if one has not already been initiated under the Service's internal candidate assessment process.

The Service has made a 90-day finding on a petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened. The petition, dated October 5, 1995 was submitted by the Biodiversity Legal Foundation, Boulder, Colorado and Marie E. Morrissey, and was received by the Service on October 6, 1995. The petitioners requested that the Service list the lesser prairie-chicken as threatened throughout its known historic range in the United States, and that critical habitat be designated as soon as needs of the species are sufficiently well known.

When the Service received the petition it was under a moratorium on listing actions as a result of Public Law 104-6, which, along with a series of

continuing budget resolutions, eliminated the Service's endangered species listing budget through April, 1996. This suspension of the listing program prohibited the Service from processing the petition to list the prairie chicken. In addition, the moratorium resulted in a substantial backlog of listing actions, which prompted the Service to issue guidance instituting a biologically based system for reducing the listing backlog. This system placed emergency listings and finalization of proposed rules to list species ahead of petition findings (61 FR 64475). For these reasons, this 90-day finding was made well over 90 days after the petition was received.

The Biodiversity Legal Foundation submitted biological, distributional, historical and other information in support of the petition. The petitioners identified threats to the lesser prairie-chicken as present and potential destruction of habitat (resulting from agricultural conversion, habitat fragmentation, intensive grazing, and brush control); disturbance caused by large oil and gas developments; overutilization by sport hunters; disease; and predation. Further, they asserted that existing regulatory mechanisms were inadequate to protect the species from decline.

The Service has reviewed the petition, literature cited in the petition, other available literature and data, and has consulted with biologists and researchers familiar with the lesser prairie-chicken. After reviewing the best scientific and commercial information available at this time, the Service finds that the petition presents substantial information that listing the lesser prairie-chicken may be warranted.

The lesser prairie-chicken historically occupied areas of sand sagebrush- (*Artemisia filifolia*) or shinnery oak- (*Quercus havardii*) bluestem grasslands in portions of southeastern Colorado, southwestern Kansas, western Oklahoma, the Texas Panhandle, and eastern New Mexico. The area originally occupied by lesser prairie-chickens was about 358,000 square kilometers (km) (139,500 square miles (mi)) (Taylor and Guthery 1980 based on Aldrich 1963). Taylor and Guthery (1980) estimated a total occupied range in 1980 of 27,300 square km (10,500 square mi), a 92 percent decrease since the 1800's.

Little information is available on lesser prairie-chicken populations prior to 1900. Litton et al. (1994) suggested that there may have been as many as two million birds in Texas alone prior to 1900. In the early twentieth century, lesser prairie-chickens were reportedly common throughout the five state range.

By the 1930's extensive cultivation, overgrazing, and drought had begun to cause the species to disappear from sections where it had been abundant (Bent 1932, Baker 1953, Bailey and Niedrach 1965, Davison 1940, Lee 1950, Oberholser 1974). Lesser prairie-chicken abundance appeared to fluctuate somewhat during the 1940's and 1950's (Copelin 1963, Crawford 1980), and by the early 1970's, the total fall population may have been reduced to about 60,000 birds (Crawford 1980). By 1980, the estimate of total fall population was approximately 44,000 to 53,000 birds, a decline of 97 percent from the pre-1900 level (Crawford 1980).

The petitioners presented, or referenced, recent population abundance or trend data from each of the states. In response to the petition, the state wildlife agencies also provided the Service with information. In general, each of the state wildlife agencies was unable to provide a precise estimate of lesser prairie-chicken population abundance. Rather, the states used lek density and/or average lek size estimates as an index to density of males (a lek is a gathering area for male birds to display and attract females).

In Colorado, the lesser prairie-chicken was listed as threatened in 1973. Historical range included 6 counties; currently, they are limited to fragmented areas of 3 counties (Giesen 1994a). The number of active leks and total number of birds counted on leks increased steadily from 3 in 1959 to 45 in 1989 (Giesen 1994b), although prior to 1981, survey effort was sporadic. In the late 1980's the lesser prairie-chicken population in Colorado was estimated between 1,000–2,000 birds on approximately 58 total leks (Giesen 1994b). Since 1990, access to private land south of the Cimarron River in Baca County has been denied, leading to an inability to accurately determine total number of leks or birds. Also, drought conditions in the early 1990's coincided with noticeable declines in numbers of active leks and numbers of males counted in other areas of occupied range (K. Giesen, pers. comm., March 1, 1997). The Colorado Division of Wildlife currently estimates a total of 800–1,100 lesser prairie-chickens in the State (J. Sheppards, CDOW, pers. comm., Aug. 14, 1996, K. Giesen, pers. comm., Dec. 13, 1995).

In Kansas, the lesser prairie-chicken is considered an upland game bird. The estimated fall population in 1979 was 17,000–18,000 birds (Crawford 1980). The petitioners estimated a spring 1995 population of approximately 5,000 birds, based on a rough estimate from Kansas Department of Wildlife and

Parks (KDWP). Four counties have been surveyed for density of lesser prairie-chickens since 1964. Eight of ten lesser prairie-chicken routes (counties) surveyed between 1969 and 1995 in Kansas have a significantly declining trend of birds/square mile ($P < 0.10$) (R. Applegate, pers. comm., Aug. 14, 1996).

In Oklahoma, the lesser prairie-chicken is also considered an upland game bird, although the Oklahoma Department of Wildlife Conservation has proposed closing the season beginning in 1998. In 1960, Copelin (1963) estimated the spring population at 15,000, falling to 7,500 in 1979 (Cannon and Knopf 1980). In 1995, the total spring population was estimated as approximately 475 birds (R. Horton, pers. comm., Dec. 13, 1995).

Between 1968 and 1995, the average lek size in Oklahoma ranged from a high of 16.5 in 1975 to a low of 4.6 in 1995. Between 1985 and 1995, the estimated density of leks within occupied habitat ranged from a high of 0.13 leks/100 hectares (ha) (247 acres (ac)) in 1988 to a low of 0.03 leks/100 ha in 1993. Density in 1995 was 0.05 leks/100 ha (247 ac) (Oklahoma Department of Wildlife Conservation 1995).

In the spring of 1996, researchers from Oklahoma State University made an effort to locate all active leks in Oklahoma. Their searches yielded 14 active leks and 123 total birds (C. Green, Oklahoma State University, pers. comm., Jan. 17, 1997). The possible existence of two additional leks were reported later that year. Some leks found in 1996 and 1997 were located in areas not traditionally searched, indicating the possibility that expanded search range may be necessary to accurately determine the status of the lesser prairie-chicken in Oklahoma.

In Texas, the lesser prairie-chicken is also classified as an upland game bird. Litton et al. (1994) reported estimates of two million birds in Texas prior to 1900. In 1979, the Texas population was estimated between 11,000 and 18,000 birds (Crawford 1980).

The Texas Parks and Wildlife Department (TPWD) provided to the Service data beginning in 1942. Estimates for average lek size are available for the Northeastern Panhandle population between 1942 and 1996. These data show marked oscillation, yet indicate a slight increasing trend when the entire period is considered ($P = 0.0077$, A. Sansom, pers. comm., Apr. 3, 1997). Estimates of average lek size are available for the Southwestern Panhandle (Permian Basin) population between 1969 and 1996. These data also indicate variance among years in average lek size, but the

overall trend is decreasing ($P=0.0001$, A. Sansom, pers. comm., Apr. 3, 1997).

Between 1942 and 1986, TPWD estimated the density of leks/100 ha in two study areas in the northeastern portion of the Texas panhandle (Wheeler and Hemphill counties). During this time period, the density of leks in Hemphill County remained fairly stable, around 0.1 leks/100 ha (247 ac). In Wheeler County, density of leks was highest in 1942 (0.9 leks/100 ha (247 ac)), peaked again in 1974 at 0.8, and remained between 0.5 and 0.6 between 1981 and 1985. Beginning in 1997, TPWD resumed estimating lek density in these two northeastern panhandle areas, as well as Gaines, Yoakum, and Bailey counties in the southwestern portion of the panhandle (A. Sansom, pers. comm., Apr. 3, 1997).

In New Mexico, the lesser prairie-chicken is an upland game bird, although the hunting season was closed in 1996. An average fall population of 6,000–10,000 birds was estimated by Taylor and Guthery (1980) using Campbell's (1972) data. Since 1971, the Bureau of Land Management (BLM) has surveyed lesser prairie-chicken leks on the Caprock Wildlife Habitat Area which encompasses approximately 50 percent of the available lesser prairie-chicken habitat in New Mexico (B. Hale, New Mexico Department of Game and Fish, pers. comm., Dec. 16, 1996). The percentage of leks sampled that are active declined from a reported high of 93 percent in 1983 (71 sampled) to 18 percent in 1996 (125 sampled, R. French, pers. comm., Aug. 14, 1996). Total population size estimates on the Caprock Area were reported as 2,600 birds in 1979, 1,100 in 1982, 2,000 in 1987, 935 in 1994, and 350 in 1996 (1996 estimate from R. French, Bureau

of Land Management, Roswell District, pers. comm., Aug. 14, 1996).

In summary, indices used to gauge annual population fluctuations differ among some states, and data are fragmented over time even within given states. An examination of the data submitted by the states to the petitioner and the Service suggests a declining trend in lesser prairie-chicken populations in each of the states with the possible exception of Texas.

Threats to the species may include conversion of native prairie to cultivation and degradation of remaining habitat. Continued conversion to agriculture could result in increasingly fragmented areas of suitable habitat. Small subpopulations in restricted areas may experience barriers to dispersal and colonization, and eventually become vulnerable to inbreeding depression, genetic drift, and chance extinctions.

Livestock grazing of rangeland to a degree that leaves little residual grass cover remaining in the spring is considered detrimental to lesser prairie-chicken populations (Bent 1932, Bidwell and Peoples 1991, Cannon and Knopf 1980, Crawford 1980, Giesen 1994b, Riley et al. 1992), because grass height is reduced below that necessary for nesting cover and desirable food plants are markedly reduced.

The control of shinnery oak or sand sagebrush to increase grass production and stocking capacity of rangelands may be detrimental to lesser prairie-chickens if control occurs over extensive areas because prairie-chickens need a diversity of vegetative components within their range. However, well managed grazing that ensures a diversity of plants and cover types remain on the

landscape can be favorable to prairie-chickens.

When the Service makes a positive finding, it is also required to promptly commence a review of the status of the species. In the case of the lesser prairie-chicken, the Service requests information on the status of the species throughout its range in the United States. The Service is soliciting additional information on the population abundance, population trends, distribution, use of habitats including native prairie and cropland, and factors documented to influence population abundance, distribution, and habitat use of lesser prairie-chickens.

References Cited

A complete list of all references cited herein, as well as others, is available upon request. Refer to the **ADDRESSES** section for contact information.

Authors

This document was prepared by Noreen E. Walsh, at the Service's Oklahoma office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, and Transportation.

Dated: June 30, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.
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