

Sacramento Fish and Wildlife Office (see **ADDRESSES** section, above).

#### Author

The primary author of this notice is Kent Livezey, Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE, Lacey, Washington 98503.

#### Authority

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

Dated: May 15, 2006.

**Kenneth Stansell,**

*Acting Director, U.S. 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 on a Petition To Delist the California Brown Pelican and Initiation of a 5-Year Review for the Brown Pelican

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status reviews for the 12-month finding and 5-year review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove the California brown pelican (*Pelecanus occidentalis californicus*) from the Federal List of Endangered and Threatened Wildlife and Plants pursuant to section 4(b)(3) of the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We, therefore, are initiating a status review of the California brown pelican to determine if delisting under the Act is warranted. We note that the taxon on the Federal List of Endangered and Threatened Species is the brown pelican (*Pelecanus occidentalis*). The petition requests specifically the delisting of the California brown pelican, (*Pelecanus occidentalis californicus*), rather than the delisting of the entire listed entity. Brown pelicans in coastal States along the Atlantic Coast and in Florida and Alabama were removed from the List of Endangered and Threatened Wildlife on

February 4, 1985 (50 FR 4938). The brown pelican remains listed as endangered throughout the remainder of its range in North, Central, and South America and the Caribbean. Because a status review is also required for the 5-year review of listed species under section 4(c)(2)(A) of the Act, we are electing to initiate a 5-year review of the brown pelican (*Pelecanus occidentalis*) throughout its range and prepare these reviews simultaneously. The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants is accurate. To ensure that the reviews are comprehensive, we are soliciting scientific and commercial information regarding this species.

**DATES:** The finding announced in this document was made on May 24, 2006. To allow us adequate time to conduct these reviews, we must receive your comments and information on or before July 24, 2006. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** To submit comments and information on the 90-day finding for the California brown pelican delisting petition or the rangewide 5-year status review, see "Public Comments" under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** For the California brown pelican (*Pelecanus occidentalis californicus*), contact Michael McCrary (see Public Comments), telephone, 805-644-1766; facsimile, 805-644-3958. For the brown pelican (*Pelecanus occidentalis*), contact Steve Chambers (see Public Comments), telephone, 505-248-6658; facsimile, 505-248-6788.

#### **SUPPLEMENTARY INFORMATION:**

##### **Petition Information**

We received a petition from Craig Harrison, of the law firm Hunton and Williams, representing the Endangered Species Recovery Council, dated December 14, 2005, to remove the California brown pelican from the Federal List of Endangered and Threatened Wildlife and Plants. We note that the taxon on the Federal List of Endangered and Threatened Species is *Pelecanus occidentalis*. The petition requests specifically the delisting of the subspecies California brown pelican, (*Pelecanus occidentalis californicus*), rather than the delisting of the entire listed entity. The petition contained information on population size, population trends, reproduction, and distribution of the California brown pelican, including information on the

status and management of the California brown pelican in Mexico. It also contained information on what the petitioners reported as the elimination (e.g., banning of DDT and other contaminants) or management of threats that had originally resulted in the California brown pelican being listed as endangered.

On the basis of information provided in the petition, we have determined that the petition presents substantial scientific or commercial information, and that removing the California brown pelican from the Federal List of Endangered and Threatened Wildlife and Plants may be warranted. Therefore, we are initiating a status review to determine if removing the subspecies is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species. Under section 4(b)(3)(B) of the Act, we are required to make a finding as to whether delisting the California brown pelican is warranted by December 14, 2006.

#### **Five-Year Review—Why Is a 5-Year Review Conducted?**

Under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) we maintain a List of Endangered and Threatened Wildlife and Plants at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews, under section 4(c)(2)(B) we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the brown pelican.

### What Information Is Considered in the Review?

A 5-year review considers all new information available at the time of the review. These reviews will consider the best scientific and commercial data that has become available since the current listing determination or most recent status review, such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends (see five factors under heading "How Do We Determine Whether a Species Is Endangered or Threatened?"); and

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

### How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Our assessment of these factors is required, under section 4(b)(1) of the Act, to be based solely on the best scientific and commercial data available.

### What Could Happen as a Result of This Review?

If we find that there is information concerning the brown pelican indicating a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened; (b) remove the species from the List; or (c) find that various subunits of the species, such as subspecies or potential distinct population segments, differ in status such that one or more of these subunits should be reclassified or removed from

the List. We may find that a change in classification of the currently listed species is not warranted, and the species should remain on the List under its current status.

We will base our 12-month finding and 5-year review on a review of the best scientific and commercial information available, including all information received during the information request period. Please note that comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) directs that determinations as to whether any species is a threatened or endangered species shall be made "solely on the basis of the best scientific and commercial data available." At the conclusion of these simultaneous reviews, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act, and make the requisite finding under section 4(c)(2)(B) of the Act based on the results of the 5-year review.

### Public Comments

To ensure that the status review for the California brown pelican and 5-year review for the brown pelican are complete and based on the best available scientific and commercial information, we are soliciting any additional information, or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, environmental entities, or any other interested parties. Information sought includes any data regarding historical and current distribution, biology and ecology, ongoing conservation measures for the species, and threats to the species. We also request information regarding the adequacy of existing regulatory mechanisms.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address pursuant to the Freedom of Information Act. However,

we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.

2. You may hand-deliver written comments and information to our office at the address given above.

3. You may send your comments and information by electronic mail (e-mail) directly to the Service at [fws8pelicanpetition@fws.gov](mailto:fws8pelicanpetition@fws.gov). Please avoid the use of special characters or any form of encryption in your e-mail. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Please also include "Attn: Brown Pelican" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805-644-1766 or please submit your comments or information in writing using one of the alternate methods described above. In the event that our internet connection is not functional, please submit your comments or information by one of the alternate methods mentioned above. Please note that the e-mail address will be closed out at the termination of the information request period.

All comments and materials received for both the status review of the California brown pelican and the 5-year review of the brown pelican throughout its range will be available for public inspection, by appointment, during normal business hours at our Ventura Fish and Wildlife Office (see **ADDRESSES** above).

### *For the California Brown Pelican (Pelecanus Occidentalis Californicus) Petition To Delist*

We are requesting information on the status of the California brown pelican throughout its range in both the United States and Mexico. Information/comments of particular interest include:

(1) Information on distribution, habitat selection, food habits, population density and trends, and habitat trends;

(2) Information on the distribution and abundance of prey species of California brown pelicans and any changes in the distribution and abundance of prey over time;

(3) Information on the effects of potential threats to California brown pelicans, including oil and gas development, contaminants, commercial and recreational fishing, disturbance, disease, and predation, in the United States and Mexico;

(4) Information on management programs for California brown pelican conservation in the United States and Mexico.

(5) Information or comments on the biological and administrative appropriateness of delisting California brown pelican (*Pelecanus occidentalis californicus*), although it is only a portion of the listed entity.

*For the Brown Pelican (Pelecanus Occidentalis) Rangewide 5-Year Review*

In addition to the information requested above, we are also requesting information for the 5-year review of the brown pelican throughout its entire range in North, Central, and South America and the Caribbean. We are requesting information on:

(1) Species biology, including but not limited to, population trends, distribution, abundance, demographics, and genetics;

(2) Habitat conditions, including but not limited to, amount, distribution, and suitability;

(3) Conservation measures that have been implemented that benefit the species;

(4) Threat status and trends; and

(5) Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

**Author**

The primary author of this document is Christine Hamilton, biologist, Ventura Fish and Wildlife Office.

**Authority**

The authority for this action is the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 15, 2006.

**Kenneth Stansell,**

*Acting Director, Fish and Wildlife Service.*

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