

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R6-ES-2008-0029; MO 92210-0-008]

Endangered and Threatened Wildlife and Plants; Initiation of Status Review of the North American Wolverine in the Contiguous United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), under the authority of the Endangered Species Act of 1973, as amended (Act), announce the initiation of a status review of the North American wolverine (*Gulo gulo luscus*) in the contiguous United States. We conduct status reviews to determine whether the entity should be listed as endangered or threatened under the Act. Through this notice, we encourage all interested parties to provide us information regarding North American wolverines throughout their range and in the contiguous United States.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before May 17, 2010. After this date, you must submit information directly to the Field Office (See **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for docket FWS-R6-ES-2008-0029 and then follow the instructions for submitting comments.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R6-ES-2008-0029; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Request for Information section below for more information).

FOR FURTHER INFORMATION CONTACT:

Mark Wilson, Field Supervisor, Montana Ecological Services Field Office, 585 Shepard Way, Helena, MT 59601; telephone (406) 449-5225;

facsimile (406) 499-5339. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:**Request for Information**

To ensure that the status review is complete and based on the best available scientific and commercial information, and to provide an opportunity to all interested parties to provide information for consideration during the status review, we are requesting information concerning North American wolverines rangewide and in the contiguous United States. We are seeking:

(1) General information concerning the taxonomy, biology, ecology, genetics, and status of North American wolverines rangewide and in the contiguous United States.

(2) Specific information relevant to the consideration of a potential distinct population segment (DPS) of North American wolverines in the contiguous United States. This consideration will be guided by our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (61 FR 4722, February 7, 1996) (known as the DPS Policy), which specifically considers two elements: (i) The discreteness of the population segment in relation to the remainder of the species to which it belongs; and (ii) the significance of the population segment to the species to which it belongs.

(3) Specific information on the conservation status of North American wolverines rangewide and in the contiguous United States, including information on distribution, abundance, and population trends.

(4) Specific information on threats to North American wolverines rangewide and in the contiguous United States, including: (i) The present or threatened destruction, modification, or curtailment of its habitat or range; (ii) overutilization for commercial, recreational, scientific, or educational purposes; (iii) disease or predation; (iv) the inadequacy of existing regulatory mechanisms; and (v) other natural or manmade factors affecting its continued existence.

(5) Specific information on implemented or planned conservation actions to improve wolverine habitats or decrease threats to wolverines in the contiguous United States.

(6) Specific information on the potential effects of climate change on

wolverines, their habitat, and their food sources in the contiguous United States.

(7) Information on the management of wolverines on both sides of the international boundary where populations occur and how this management may differ between Canada and the United States in how it affects the status of wolverines.

If you submit information, we request you support it with documentation, such as data, maps, bibliographic references, methods used to gather and analyze the data, or copies of any pertinent publications, reports, or letters by knowledgeable sources.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. We will also post all hardcopy submissions on <http://www.regulations.gov>. If you include personal identifying information in your hardcopy submission, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so.

Information and supporting documentation that we receive and use in preparing a finding will be available for you to review by appointment during normal business hours at the U.S. Fish and Wildlife Service, Montana Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

The North American wolverine (*Gulo gulo luscus*) is the largest terrestrial member of the family *Mustelidae*. Adult males weigh 12 to 18 kilograms (kg) (26 to 40 pounds (lb)), and adult females weigh 8 to 12 kg (17 to 26 lb) (Banci 1994, p. 99). The wolverine resembles a small bear with a bushy tail. It has a broad, rounded head; short, rounded ears; and small eyes. Each foot has five toes with curved, semi-retractile claws used for digging and climbing (Banci 1994, p. 99).

Wolverines exist in alpine and sub-alpine habitats, which in the contiguous

48 States occur at high elevations in the Rocky, North Cascade, and Sierra Nevada mountains (Aubry *et al.* 2007, p. 2153). Wolverines have recently been positively documented in the Sierra Nevada range in California and the southern Rocky Mountains of Colorado for the first time since the early 20th century.

Wolverines are opportunistic feeders and consume a variety of foods depending on availability. They primarily scavenge carrion, but also prey on small animals and birds, and eat fruits, berries, and insects (Hornocker and Hash 1981, p. 1290; Hash 1987, p. 579; Banci 1994, pp. 111–113).

Wolverines have delayed onset of reproduction in females and small litter sizes, and often reproduce only every other year.

Home ranges at the southern terminus of the current range are large for mammals of the size of wolverines, and may indicate that wolverines have high energetic requirements and at the same time occupy relatively unproductive niches (Inman *et al.* 2007a, p. 11). In addition, wolverines naturally occur in low densities that average about one wolverine per 150 km² (58 mi²) (Hornocker and Hash 1981, pp. 1292–1295; Hash 1987, p. 578; Copeland 1996, pp. 31–32; Copeland and Yates 2006, p. 27; Inman *et al.* 2007a, p. 10; Squires *et al.* 2007, p. 2218).

Previous Federal Actions

We received a petition dated August 3, 1994, from the Predator Project (now named the Predator Conservation Alliance) and Biodiversity Legal Foundation to list the North American wolverine in the contiguous United States as an endangered or threatened species under the Act and to designate critical habitat concurrent with listing. On April 19, 1995, we published a finding (60 FR 19567) that the petition did not present substantial information indicating that listing the North American wolverine in the contiguous United States may be warranted. We did not make a determination as to whether the contiguous U.S. population of the North American wolverine constituted a DPS or other listable entity.

On July 14, 2000, we received another petition dated July 11, 2000, submitted by the Biodiversity Legal Foundation, Predator Conservation Alliance, Defenders of Wildlife, Northwest Ecosystem Alliance, Friends of the Clearwater, and Superior Wilderness Action Network, to list the North American wolverine within the contiguous United States as an endangered or threatened species under the Act and to designate critical habitat

for the species concurrent with the listing.

On October 21, 2003, we published a 90-day finding that the petition to list the North American wolverine in the contiguous United States did not present substantial scientific and commercial information indicating that listing as threatened or endangered may be warranted (68 FR 60112). We did not determine whether the contiguous U.S. population of the North American wolverine constituted a DPS (or other listable entity), because sufficient information was not available at the time.

On September 29, 2006, as a result of a complaint filed by Defenders of Wildlife and others alleging we used the wrong standards to assess the July 2000 wolverine petition, the U.S. District Court, Montana District, ruled that our 90-day petition finding was in error and ordered us to make a 12-month finding for the wolverine (*Defenders of Wildlife et al. v. Norton and Hogan* (9:05cv99 DWM; D. MT)). On April 6, 2007, the Court approved an unopposed motion to extend the deadline for this 12-month finding to February 28, 2008, so that we would be able to use information published in the September 2007 edition of the *Journal of Wildlife Management* containing a special section on North American wolverine biology. On June 5, 2007, we published a notice initiating a status review for the wolverine (72 FR 31048).

On March 11, 2008, we published a 12-month finding on the wolverine in the contiguous United States (73 FR 12929). In that finding, we determined that the wolverine in the contiguous United States did not constitute a DPS. Therefore, we determined that the wolverine in the contiguous United States was not a listable entity under the Act. On September 30, 2008, Defenders of Wildlife *et al.* filed a complaint challenging our 12-month finding on the basis of our application of the DPS Policy and the Act. On March 23, 2009, we settled the lawsuit with the plaintiffs and agreed to submit a new 12-month finding to the **Federal Register** by December 1, 2010.

References Cited

A complete list of all references is available upon request from the Field Supervisor, Montana Ecological Services Field Office (See **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this document are the staff members of the U.S. Fish and Wildlife Service, Montana Ecological Services Field Office.

Authority

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

Dated: March 30, 2010.

Daniel M. Ashe,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–8698 Filed 4–14–10; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2008-0127]

[MO 92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List the Wyoming Pocket Gopher as Endangered or Threatened with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Wyoming pocket gopher (*Thomomys clusius*) as endangered or threatened and to designate critical habitat under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, we find that listing the Wyoming pocket gopher as either endangered or threatened is not warranted at this time. We ask the public to continue to submit to us any new information that becomes available concerning the status of, or threats to, the Wyoming pocket gopher or its habitat.

DATES: The finding announced in this document was made on April 15, 2010.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov> at Docket Number FWS-R6-ES-2008-0127. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Cheyenne, WY 82009. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, Field Supervisor, Wyoming