

Conservationists to sue U.S. over status of Ariz. bald eagles

Kate Nolan

The Arizona Republic

Nov. 3, 2006 12:00 AM

Arizona conservationists will go another round with the U.S. Fish and Wildlife Service concerning Arizona bald eagles and whether they deserve special protection under the Endangered Species Act.

This time the fight may go to the federal courts.

The Center for Biological Diversity and Maricopa Audubon Society filed a notice of intent to sue Fish and Wildlife on Thursday for rejecting a petition by the conservationists to list desert nesting bald eagles - most live in Arizona - as a "distinct population segment."

The classification would qualify Arizona eagles for endangered-species protection if bald eagles lose it nationally, as expected.

In August, Fish and Wildlife denied the petition, ruling that threats to the desert eagle, such as the impact of Arizona's population boom and declining rivers, couldn't be scientifically assessed and that desert eagles aren't distinct, despite their thicker eggshells, earlier breeding season and smaller size.

The conservation groups say the ruling failed to protect the eagles by ignoring key data and violates the Endangered Species Act section on delisting.

"The reality is that they have an issue that regards a distinct population segment, but they recently overturned 30 years of findings," said Dr. Robin Silver, board chairman of the Center for Biological Diversity.

Fish and Wildlife counters that the groups failed to make their case.

"The question is whether we have substantial information from the petitioners. We weigh what has been provided and evaluate it against information in our files. We don't add on information from the files," said Michelle Morgan, Fish and Wildlife's national chief for recovery and delisting. Morgan said the groups failed to show that Arizona eagles are a separate entity.

If the lawsuit goes forward, the conservationists plan to present multiple federal and state reports they say support their position.

Arizona eagles have seen steady growth from a handful of birds in the late 1970s when Audubon started a bald-eagle program that grew into the statewide program now managed by the Arizona Game and Fish Department. Eagles now number about 50 breeding pairs, which scientists still considered a handful.

There are no "magic numbers," but 50 is very small, said Brian Sullivan, professor of evolutionary biology at Arizona State University. "I can't imagine any program having 50 breeding pair of anything as a goal," he added, suggesting that the court battle would be over how unique Arizona birds are compared with those elsewhere.

The conservation groups' petition and threatened lawsuit were spurred by a 7-year-old proposal by Fish and Wildlife to delist bald eagles as an endangered species nationally.

If the case goes to court, it won't be the first legal action inspired by the languishing delisting proposal.

A developer in Minnesota sued, and as a result a federal judge ordered Fish and Wildlife to decide by Feb. 16, 2007, whether to delist the bald eagle.

Valerie Fellows, a spokeswoman for Fish and Wildlife, said, "We believe the bald eagle has recovered and look forward to its delisting. We don't know how the Center for Biological Diversity lawsuit will affect delisting, but we'll take every

opportunity not to enter into active litigation."

Silver said the lawsuit will be filed in 60 days unless Fish and Wildlife reverses its rejection of the petition and grants endangered-species protection to the desert bald eagle.

Reach the reporter at kate.nolan@arizonarepublic.com or (602) 444-6863.