

November 28, 2003

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814

Dear Commissioners:

I am writing in support of the petition to list the western burrowing owl (*Athene cunicularia hypugaea*) under the California Endangered Species Act (CESA). I write to you as a professional ornithologist who has worked on the conservation and research of birds of prey for over 25 years including 13 years of research on burrowing owls in California. I organized and was the Technical Program Chairman of the recent California Burrowing Owl Symposium in Sacramento. I am a member of the California Burrowing Owl Consortium and I chaired the Consortium committee that prepared the Burrowing Owl Survey Protocol and Mitigation Guidelines (1993 and 1997) which became the basis for the Department of Fish and Game's Staff Report on Burrowing Owl Mitigation (1995).

Status assessments of the distribution and abundance of burrowing owls in California have shown that California supports a numerically large but unevenly distributed population of burrowing owls. These assessments, especially the statewide assessment conducted by the Institute for Bird Populations in 1991-1993 (DeSante and Ruhlen 1995 and DeSante et al. 1997) have clearly shown that breeding burrowing owls have severely declined or disappeared in several areas of California. The Department of Fish and Game acknowledged owl population declines beginning in 1978 by designating the burrowing owl as a Species of Special Concern and recently in their October 2003 review of the petition. I contend that these declines clearly show that listing the burrowing owl under CESA may be warranted. I suggest that without the protection afforded by CESA the Department of Fish and Game will not be able to fulfill its mission to manage burrowing owls and their habitats for their ecological values and enjoyment by the public. I say this because experience over the past 10 years has shown that existing regulatory mechanisms have not been effective at reversing population declines in several areas of the state.

Members of the California Burrowing Owl Consortium first prepared a petition to list the burrowing owl in 1994. However, after considering the ramifications of submitting the petition we decided not to submit it but rather to pursue other conservation measures to avoid the need for listing. To this end, we met with Secretary of the Resources Agency Doug Wheeler in 1995 and the Director of the Department of Fish and Game Jackie Shafer in 1998 to suggest alternatives to listing. Our suggestions included regional conservation planning and municipal burrowing owl habitat conservation plans, especially in the San Francisco Bay Area. These suggestions were acted upon; a bill introduced to the California State Assembly in 1999 would have funded the Department of Fish and Game to prepare a Bay Area burrowing owl conservation strategy. However, during appropriations hearings the bill's original purpose was altered to the extent that it

no longer specifically applied to burrowing owls and eventually it was not funded. Suggestions that municipalities develop burrowing owl conservation plans have resulted in only one approved plan in the City of Morgan Hill where burrowing owls were never numerous and may no longer breed.

Existing regulatory mechanisms, especially the California Environmental Quality Act (CEQA) but also Natural Community Conservation Plans (NCCPs) and Habitat Conservation Plans (HCPs) are inadequate to address burrowing owl population declines because they were not designed to remedy wildlife species declines. The CESA was conceived to address species endangerment or threat of endangerment and it is clearly the best tool at our disposal to affect burrowing owl recovery. I suggest that we use the best means available and that would begin by designating the burrowing owl as a candidate for listing under CESA. To do otherwise would be an act of wishful thinking that other regulatory mechanisms can be effectively used to conserve the owl's numbers and distribution throughout California.

In their review of the petition, the Department acknowledged that burrowing owls have clearly declined in some part of California but they recommended against listing because of healthy populations in some parts of the state. I suggest that this conclusion is short-sighted and contrary to the Department's mission statement to manage our wildlife resources for their ecological values (i.e., the distribution and abundance of burrowing owls) for the enjoyment by the public. I am not content with knowing that there may be healthy populations of burrowing owls in some areas of the state while breeding owls have severely declined or disappeared from nearly one-fifth of their state range. Furthermore, I don't think the public wants to travel to the Imperial Valley or the southern Central Valley to see and appreciate burrowing owls. Such an approach is contrary to basic principles of biological conservation and the intent of endangered species legislation. This reminds me of the statement by Aldo Leopold (1949):

“There seems to be a tacit assumption that if grizzlies survive in Canada and Alaska, that is good enough. It is not good enough for me... Relegating grizzlies to Alaska is about like relegating happiness to heaven, one may never get there.”

On a technical note, the Department's review of the petition (page 26) states that additional banding studies would provide valuable information regarding connectivity between regional populations of burrowing owls in California. The review cites the lack of genetic differentiation between populations of western burrowing owls (Korfanta et al. *in press*) and a statement in Gervais (2002) based on two banded owl encounters that suggest connectivity between regional populations as evidence of more exchange between populations that had been previously known. The implication is that movements of burrowing owls from stable populations can augment declining populations elsewhere. An associate and I presented an analysis of all the records of burrowing owls banded in and recovered in California at the recent Burrowing Owl Symposium (Harman and Barclay 2003). These data include 4,553 owls banded in California and 90 records of banded owls encountered inside or outside California. These data show no evidence of

movements of resident owls between regional populations in California. I have personally banded 476 burrowing owls at an increasing owl colony in San Jose and have only seven records of banded owls encountered outside this colony with the farthest only eight miles away. I contend that we have a significant amount of California burrowing owl banding data and they show no evidence of connectivity between regional populations.

Because burrowing owls are not uniformly distributed throughout their range in California and the documented regional population declines are not uniform, I suggest consideration be given to listing the burrowing owl according to the severity of its endangerment in those counties or biogeographic regions where it has declined or disappeared. Such designations would most directly reflect the owl's regional status and need for additional protection. In the meantime, candidacy would provide time for thorough regional status assessments that could be used to eventually designate the owl as endangered in some counties (it is in fact extirpated as a breeding bird in some counties), threatened in others or no listing under CESA in others where its populations are not in peril. I have been told that there is no precedent for regional listing in California which sounds like an unimaginative excuse not to at least consider it. There is ample precedent for regional listing on the federal level. Regional listing is the most logical solution to apply endangered species protections most directly where they are needed and not to apply them (and their restrictions) where they are not needed. I appeal to your important role in the stewardship of California's natural resources and in fulfillment of the Commission's Mission Statement and accept the petition to list the burrowing owl under CESA.

Respectively,

Jack Barclay  
Ornithologist

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