

## **Environmentalists seek to delay pygmy owl delisting**

By Eric Beidel

May 17, 2006 - Environmentalists last week filed suit in hopes of stopping the removal of the pygmy owl from the federal endangered species list.

The Center for Biological Diversity and Defenders of Wildlife previously issued an intent to sue the U.S. Fish and Wildlife Service, requesting that the federal agency delay the owl's delisting until Sept. 1.

The FWS refused and the groups sued.

The delisting would have taken effect on Monday, May 15.

Environmentalists seek a temporary restraining order that would delay the delisting for 10 days, during which time the environmentalists and the FWS would gather information and present it to a judge.

"With only 13 known pygmy owls left in Arizona, the species faces imminent extinction," said Jenny Neeley, southwest representative for Defenders of Wildlife.

One of the 13 makes its home in a low-density residential area in the Northwest, FWS Biologist Scott Richardson said. Others live in Oregon Pipe National Monument and Altar Valley, he added.

The FWS listed the cactus ferruginous pygmy owl as endangered in 1997. But an appeals court last year ruled that the agency had not adequately explained the listing. The ruling specifically cited the failure to distinguish the owls in Arizona from those in Mexico. The FWS last month announced its intention to remove the owl from the list.

The pygmy owl is reddish-brown, about a half-foot long and weighs no more than a tennis ball. When listed, developers had to take precautions to protect its habitat.

Homebuilders must complete surveys for the owl each year and consult with the FWS to make sure no critical habitat gets destroyed. As part of the survey, developers must play owl mating calls to see if they get a response.

If the delisting takes effect, all of the red tape would disappear.

"At this point, it's business as usual," said Alex Jacome, a government liaison with Southern Arizona Homebuilders Association, one of the groups that sued to remove the owl from the endangered species list.

"(Homebuilders) continue to comply with all the regulations. Since they've been doing it for years, there's no big change."

If environmentalists get their way and the owl goes back on the list, "we will fight it," Jacome said. "They think this (owl) is distinct. Unfortunately, they haven't been able to prove it. Most of these groups don't lift a finger to help these critters, they just file suit."

Environmentalists two weeks ago thought the FWS would voluntarily stay the delisting. A stay or delay in the owl's removal would save a lot of developers a lot of money in the long run, said Chris McVie, activist with Desert Watch, an organization including environmentalists, scientists and landowners.

"Most people have gone forward with plans considering the pygmy owl," she said. "A complication at a later date would cost (developers) more money."

No matter the fate of the owl, Marana will move forward with its habitat conservation plan, which takes into account not only the pygmy owl, but the burrowing owl, the Tucson shovel-nosed and ground snakes, the lesser long-nosed bat and the pale Townsend's big-eared bat. The Sonoran Desert Conservation Plan identified the animals as threatened species in

need of habitat protection.

Pima County voters in 2004 approved more than \$170 million to acquire open space around the county for habitat protection. So far, the county has spent more than \$50 million and acquired more than 21,500 acres and tens of thousands of acres in grazing leases.

Marana is considering an overlay district east of Interstate 10, which would limit development disturbance to surrounding critical areas to 30 or 40 percent. The most sensitive habitats would be preserved outright. A draft of the overlay zone could reach the town council in the next two months, Town Manager Mike Reuwsaat said.

The federal government created the endangered species list to protect animals on the verge of extinction, environmentalists argue. A delisting would have a deadly effect on the dwindling pygmy owl population, they claim.

"Given the pygmy-owl's exceedingly imperiled status and the fact that this decision will strip the species and its habitat of any meaningful legal protection," a delisting would "almost certainly result in its extinction in Arizona ," according to the motion filed by Defenders of Wildlife and the Center for Biological Diversity.

The groups in their lawsuit argue that pygmy owls in Arizona differ greatly from those found in Mexico and South America .

"The U.S. Fish and Wildlife Service has studied this," Jacome argued. "Their findings are far more accurate than these other groups."