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## Environmentalists sue to keep tiny owl on endangered list

By Arthur H. Rotstein  
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TUCSON, Ariz. — Conservation groups have sued to stop the U.S. Fish and Wildlife Service from removing a tiny desert owl from the endangered species list.

The cactus ferruginous pygmy owl is only about 6 inches long and weighs in at less than 3 ounces, but has been at the center of a battle between environmentalists and developers for more than a decade. It is scheduled to officially be taken off the list Monday.

The Center for Biological Diversity and Defenders of Wildlife filed suit in federal court Thursday challenging that decision. They also are requesting a temporary restraining order to block Monday's action.

Fish and Wildlife is removing the pygmy owl from the endangered species list because it has determined it is not a distinct subspecies.

There are only 13 known pygmy owls left in Arizona, said Jenny Neeley of the Defenders of Wildlife. She said the owl, which has been listed as endangered since 1997, will face imminent extinction if endangered species protection is removed.

Critical habitat designations for the owl covering more than 1 million acres in Arizona will be lifted if the owl comes off the list.

Developers and landowners have opposed endangered status for the bird because of its economic impact. Its presence delayed numerous developments and road projects, and also blocked construction of a high school northwest of Tucson.

Daniel Patterson, the center's desert ecologist, said that if the bird's protection is lost, it would immediately jeopardize dozens of conservation agreements in southern Arizona that are based on protection of the owl.

"If the owl is no longer protected, a lot of these agreements could become invalid, which would open up big new areas to urban sprawl," he said.

Patterson said Fish and Wildlife biologists recommended continued listing but "the on-the-ground staff has been completely cut out" of dealing with the pygmy owl, and the decision was based on politics in Washington.

Fish and Wildlife spokesman Jeff Humphrey declined comment, noting that the litigation has been turned over to the Justice Department. However, he said ultimately all such decisions are made by the agency's director and the interior

secretary.

In August 2003, the 9th U.S. Circuit Court of Appeals ruled that Fish and Wildlife had "acted arbitrarily and capriciously in designating" the Arizona population of cactus ferruginous pygmy owls as a distinct population segment, and ordered further proceedings.

Fish and Wildlife said the ruling called for removal of the bird from the endangered species list; environmental groups said the ruling called only for a clear explanation of the original decision.

U.S. District Judge Susan Bolton in Phoenix ordered the bird be protected at least until January 2005, pending Fish and Wildlife's determination of whether listing was scientifically valid. In August 2005, the federal agency said it would move to strike the owl from the list.