



## FWS to give pygmy owl update to court

By Ryan J. Stanton,  
[rstanton@ExplorerNews.com](mailto:rstanton@ExplorerNews.com)

**Jan. 26, 2005** - U.S. Fish and Wildlife Service officials have until Jan. 31 to issue an update to U.S. District Court on the status of its reconsideration of the cactus ferruginous pygmy owl as an endangered species.

However, officials from both the local and national FWS offices say no clear decision has been made whether to keep the pygmy owl protected under the federal Endangered Species Act.

Scott Richardson, a local FWS biologist in Tucson, said most work on the case has been handled out of the Washington office. It's only an assumption, he said, but he believes the update to the court in the next week will read, "We're not sure yet."

An open-ended June 25 District Court ruling stated that FWS must report to the court on the status of its reconsideration of the Listing Rule and the Critical Habitat Designation in regards to the pygmy owl by Jan. 31.

The order denied requests from the Defenders of Wildlife to give FWS a deadline for a determination, or the chance to reopen a public comment period.

"The court had ordered us to determine if the owl should be listed," Richardson said. "Eventually, there will be a decision made and the court will consider that and come up with a final ruling."

Meanwhile, rumors have surfaced that FWS could lean toward de-listing the owl, a move that would cause a reaction from local environmental groups who've supported efforts to protect the owl since its listing in 1997.

"We're really disappointed," said Jenny Neeley, southwest representative for Defenders of Wildlife. "What the Fish and Wildlife Service is doing is ignoring all the information, basing their decision purely on politics."

Considering the Bush administration's "horrendous" policies on wildlife and FWS's inability to take into account science, Neeley said she's not surprised the owl might be de-listed.

"If the service goes this route, they're asking for conflict," she said. "It's not something they can do with a straight face. If they do it without any public review we're certainly going to be challenging that."

Richardson suspects the court will set a deadline for a final disposition after the update is submitted. He said Arizona Game and Fish has

been tracking owl numbers throughout the state, while various professors at different universities have conducted genetics studies.

Recent work done by a University of Arizona professor, Robert Steidl, used DNA research to define genetic distinctions between different owl populations, he said.

Plotted on a map, owl population patterns resemble two fingers in the shape of the letter V coming up the eastern side of Mexico into Texas and coming up the western side into Arizona, Richardson said.

"Those two fingers are genetically distinct," he said. However, populations in Arizona now are linked to those in Mexico, he added.

"Genetically, birds in northern Mexico are similar to birds in southern Arizona," he said.

In light of these findings, Richardson said, it's uncertain whether the owl will remain listed.

"We'd have to look at everything and take that into consideration," he said. "Certainly the genetics is an important piece of that. We're looking at the consideration of the status as a whole."

Neeley said the Endangered Species Act calls for the best science to be taken into account.

She said FWS couldn't possibly base a decision to de-list on new science, which details a declining pygmy owl population.

"There's all of this science. I have it all piled on my desk," she said. "For the Fish and Wildlife Service to refuse to look at it, and make a decision refusing that science, there's no justification for it."

Richardson said his local office has done no studies, but has contributed to others that are ongoing.

Neeley said the best piece of science is the overall decline of the species as a whole. She said it's good to know there is a population in Mexico, but the Endangered Species Act is supposed to protect the status of species in the U.S.

"There're a bunch of animals that are considered very endangered in this country that occur elsewhere," she said.

Carolyn Campbell, executive director of the Coalition for Sonoran Desert Protection, said she doesn't know what the National Association of Homebuilders was thinking when it took the status of the pygmy owl to court, causing the long-standing debate.

"All this does is keep it in court for an uncertain number of years to come," she said. "It certainly doesn't make any sense to me that the Fish and Wildlife Service would pursue a de-listing when this species is so obviously in dire straits."

Campbell, who has been involved with both the Marana and Pima County conservation plans, said she hopes the owl's status won't affect habitat conservation plan efforts.

"We're supporting whatever Defenders and the (Center for Biological Diversity) do," she said. "We certainly will be supporting efforts to make sure we counter any kind of de-listing of the owl."

Marana Town Manager Mike Reuwsaat said he was "more than aware" that talks have surfaced regarding the owl's de-listing.

He said he met recently with FWS officials who told him about DNA studies that link the owl population in Arizona to a population in Mexico. That might be cause to de-list the owl, he said, but that wouldn't drastically change Marana's plans to expand the Tortolita Preserve, a 2,400-acre desert park near Dove Mountain, to 18,000 acres.

"There's also discussion that if the owl is de-listed, one of the environmental groups will immediately petition to have it re-listed and I think that's almost a certainty," he said. "You're going to end up having the judge's decision and then wait to see if it's re-listed. Then we'd really have to look at what impact it would have on our HCP."

A draft of the HCP approved by the town council has been under review by Arizona Game and Fish and FWS since October. The plan got positive marks from Arizona Game and Fish, Reuwsaat said. However, FWS gave extensive feedback to the plan.

The HCP identifies three male pygmy owls living east of I-10. It includes a 25-year horizon that takes into account both endangered and threatened species, including the burrowing owl and the Tucson shovel-nosed and ground snakes,

the lesser long-nosed bat and the pale Townsend's big-eared bat.

"Besides the pygmy owl, there are the burrowing owl and two other snakes that are worthy of a consideration over the time frame we're talking about," Reuwsaat said. "We're just waiting to see like everyone else."

Leslie Liberti, Marana's HCP project manager, said she's been following the talks surrounding the pygmy owl's status, but right now it's hard to make a call. Regardless, it won't require a change to the HCP.

"It's obviously in very serious danger of becoming extinct in Arizona and that's serious," she said. "But on the other hand, it's not clear whether it's a distinct population segment. This is one where I will bow to the Fish and Wildlife Service and the courts."