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Pygmy owl not protected by endangered species act - for now

By Lindsey Stockton, assistant editor

A very small owl is causing a big diversion in the environmental conservation arena.

In April, the decision to remove the cactus ferruginous pygmy owl from the endangered species list was based on a Ninth Circuit Court of Appeals opinion, as well as relevant science, policy and legal considerations. The owl can be found in the Gila Box area of Graham County, and the U.S. Fish and Wildlife Service found that the Arizona population of the owl does not contribute significantly as a whole to the species, which exists throughout Arizona, Texas and Mexico .

The Center for Biological Diversity in Tucson , however, is fighting the decision. Attorneys for the center were in court Thursday to ask a judge to delay the delisting until legal processes could be completed.

A federal judge refused to stay delisting of the bird last month when conservationists asked for a temporary restraining order on the Fish and Wildlife Service's decision to remove federal protection for the pygmy owl, but advocates said they hope the judge will now approve the stay.

“We want the court to protect the bird while we litigate this decision,” Erik Ryberg, attorney for the Center for Biological Diversity, said. “Without a stay, the bird will likely go extinct in Arizona while we are in court.”

The stay was not granted Friday, but the judge did take the case into consideration, and Ryberg said a briefing between the involved parties will be scheduled. After hearing the cases from all sides and reading the documents, the judge will make a decision. Ryberg said the decision will be made within two weeks.

“As of right now, the bird is not protected by the Endangered Species Act,” he said, “but that could change any minute.”

Biologists predict as few as 15 individual cactus ferruginous pygmy owls remain in America , and their numbers are declining across the border in Mexico as well.

The owl was delisted because, although numbers in Arizona are low, it does not qualify the entire owl subspecies for endangered status under criteria established by a recent court decision and Fish and Wildlife Service policy for distinct population segments, Fish and Wildlife acting Regional Director for the Southwest Region Benjamin N. Tuggle said.

The cactus ferruginous pygmy owl is a diminutive owl that lives in Sonoran desert ecosystems. It flies and hunts low to the ground, feeding on lizards and insects. It requires trees and shrubs to hunt and nests in saguaro cactus.