

## Proposed wildlife policy change draws fire

By Steve Gorman and Laura Zuckerman

**Dozens of conservation groups and nearly 100 scientists voiced opposition on Thursday to an Obama administration proposal they say would make it much harder for imperiled creatures to qualify for protection under the Endangered Species Act.**

The proposed policy change, formally unveiled in December, stems from an ongoing dispute over the cactus ferruginous pygmy owl, a small, rare bird whose range includes the Sonoran Desert in Arizona, and a previous fight over the flat-tailed horned lizard in the California desert.

Critics say protection of imperiled plants and animals under the Endangered Species Act would be sharply curtailed by the administration's plan to reinterpret a key phrase of the 1973 statute, one of the pillars of U.S. environmental law.

The administration has said the policy change would "help clarify" which species are eligible for federal safeguards, acknowledging that its proposal is based on "a more specific and stringent standard."

The act currently defines an endangered species as being "in danger of extinction in all or a significant portion of its range," meaning that a species need not be at risk of disappearing everywhere in order to deserve protection.

The administration's proposal would redefine "significant"

range as a portion of habitat so vital that its loss would threaten the survival of the species as a whole. Also under the revised policy, consideration of whether a species is threatened or endangered in a portion of its range would be limited strictly to those areas where it currently exists, rather than to its historic range.

### FROM OWLS TO EAGLES

"If this policy had been in place when the Endangered Species Act was passed, the bald eagle would never have been protected in any of the lower 48 states, because there were still a lot of eagles up in Alaska," said Noah Greenwald, endangered species director of the Arizona-based group Center for Biological Diversity.

A letter addressed to Tina Campbell, the policy chief for the U.S. Fish and Wildlife Service, opposing the move was signed by the heads of 80 environmental groups, including the Endangered Species Coalition, Earthjustice and the Humane Society of the United States. A similar letter was signed by 97 conservation scientists around the country.

The letters were sent on the last day of a public comment period for the proposal, which has drawn more than 400 written responses, some from development and industry organizations welcoming the change.

Alaska Miners Association executive director Fred Parady said his organization supports the "confirmation that 'range' means 'current range,' not 'historical range,'" and he encouraged the government to "strive for maximum regulatory flexibility" when implementing the proposed policy.

Gary Frazer, assistant director of the endangered species program for the U.S. Fish and Wildlife Service, said Congress left it up to the Interior Department agency to spell out the meaning of "a significant portion of range."

That agency and the National Marine Fisheries Service under the Commerce Department share responsibility for administering the law and issued the proposed policy change together. Frazer said the plan seeks to address legal challenges raised in deciding whether to impose broad restrictions on commercial activity for

the sake of an entire species when only an isolated population of that species is imperiled. He said the government is expected to use its authority to protect certain imperiled plants and animals sparingly. "It certainly means not willy-nilly, listing tiny little populations all over the map on the basis of that population alone," Frazer said.

Critics of the plan say the same reasoning already has been applied in denying protection to the pygmy owl, which the government originally recommended for listing before reversing course.

The western range of the tiny owl, measuring less than 7 inches in length, extends from central and southern Arizona south through the Sonoran desert into the Mexican states of Sonora and Sinaloa.

According to the group Defenders of Wildlife, the bird is threatened mainly by habitat loss from development, livestock grazing, water withdrawals and other factors. Since 1996, authorities in Arizona have counted 12 to 41 adult pygmy owls a year, and in 2006 surveyors spotted only 28.

"The Fish and Wildlife Service has long been criticized for only protecting species on the very brink of extinction, which makes recovery a difficult uphill slog," Greenwald said. "This policy would actually codify that approach."