

ESA Listing Updates

(This information is available online at: <http://www.wsdot.wa.gov/Environment/Biology/BA/default.htm#SpeciesList>)

Species Proposed For Listing

Species	Date of Proposed Rule	Anticipated Listing Date	Comments
Dolly Varden	January 9, 2001	Unknown - likely to remain a proposed species	This species is proposed for listing under the ESA "Similarity of Appearance" provision, section 4(e). However, WSDOT does not address this species in biological assessments.
Umtanum desert buckwheat <i>(Eriogonum codium)</i>	May 15, 2012	Mid-2013	This rare plant is confined to Hanford Reach National Monument in Benton and Franklin Counties
White Bluffs bladderpod <i>(Physaria douglasii</i> subsp. <i>tuplashensis)</i>	May 15, 2012	Mid-2013	This rare plant is confined to Hanford Reach National Monument in Benton and Franklin Counties

Critical Habitat, Protective Regulations & Other Notices/Proposed Rules

Species	Status	Anticipated Date of Final or Proposed Rule	Comments
Northern Spotted Owl	Revise Critical Habitat	November 2012	The U.S. Fish and Wildlife Service (Service) proposed to revise critical habitat for the northern spotted owl (<i>Strix occidentalis caurina</i>) under the Endangered Species Act on March 8, 2012 (50 CFR Part 17 14062-14165). The original critical habitat designation in 2008 and the Recovery Plan were criticized as being influenced by political interference. Lawsuits ensued on both fronts, and a Revised Recovery Plan was issued in 2011. The integrated habitat conservation planning framework developed in the Revised Recovery Plan guided this proposal for critical habitat. Overall, northern spotted owl numbers have been declining 2.9% on average per year – leading to an estimated 40% decline in numbers over the last 25 years. In the current proposal, the Service identified approximately 13,962,449 acres in 11 units and 63 subunits in California, Oregon, and Washington that meet the definition of critical habitat (the previous 2008 designation had 5,312,300 acres).
Woodland Caribou Critical Habitat	Critical habitat was proposed by the USFWS on 10/30/11 in Northeastern Washington and Northern Idaho. A total of 71,976 acres of critical habitat were proposed in Pend Oreille County, all on federal land.	Final rule anticipated second half of 2012	Critical habitat was proposed on 10/30/11 by the USFWS. All of the proposed area in Washington State is within Pend Oreille County on U.S. Forest Service land. Five primary constituent elements were proposed: i. Mature to old-growth western hemlock (<i>Tsuga heterophylla</i>)/western red cedar (<i>Thuja plicata</i>) climax forest, and subalpine fir (<i>Abies lasiocarpa</i>)/ Engelmann spruce (<i>Picea engelmannii</i>) climax forest over 4,000 ft (1,220 m) in elevation; these habitats typically have 70 percent or greater canopy closure. ii. Ridge tops with deep (up to 16 ft (5 m)) snowpack that are generally 6,000 ft (1,830 m) in elevation or higher, in mature to old stands of subalpine fir (<i>Abies lasiocarpa</i>)/Engelmann spruce (<i>Picea engelmannii</i>) climax forest, with relatively open (approximately 50 percent) canopy. iii. Arboreal hair lichen growth in high enough amounts to support southern Selkirk Mountain caribou herds. iv. High-elevation benches and shallow slopes, secondary stream bottoms, riparian areas, and seeps, and subalpine meadows with succulent forbs and grasses, flowering plants, horsetails, willow, huckleberry, dwarf birch, sedges and lichens. Southern Selkirk Mountain caribou, including pregnant females, use these areas for feeding during the spring and summer seasons. v. Transition zones that connect the habitats described above and that facilitate seasonal caribou movements between habitat types.

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Leatherback Sea Turtle Critical Habitat <u>Final Rule</u>	January 5, 2010 – NMFS proposed revisions to existing critical habitat designation for leatherback sea turtle to include coastal areas of Washington, Oregon and California.	Final rule designated critical habitat on Washington Coast south of Cape Flattery, and on Oregon and California coasts 1/27/12	Critical habitat was designated on 1/27/12, with 25,004 square miles of critical habitat added in Washington, Oregon, and California. Specific areas designated in Washington include the area bounded by Winchester Bay, Oregon north along the shoreline to the US/Canada border (not entering the Strait of Juan de Fuca), out to the 2000 meter depth contour, and on the east by the mean low lower water mark except at estuaries and bays, where the boundary is generally defined as a line across estuary or bay mouth. The proposed area does not include the Strait of Juan de Fuca, Puget Sound, the mouth of the Quillayute River, Grays Harbor, Willapa Bay or the mouth of the Columbia River. One Primary Constituent Element (PCE) was defined as: (1) occurrence of prey species, primarily scyphomedusae (moon jellies) of sufficient condition, distribution, diversity and abundance to support individual growth, reproduction and development.
North Pacific Ocean DPS Loggerhead Sea Turtle <u>Final Rule</u>	September 22, 2011. USFWS and NMFS list N. Pacific DPS as endangered .	September 22, 2011	On September 22, 2011, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (Services) issued a final rule on the Endangered Species Act (ESA) listing of the loggerhead sea turtle (<i>Caretta caretta</i>). The Services determined that there were nine loggerhead distinct population segments (DPSs), and five were listed as endangered, and four as threatened. The Services had previously listed the species as threatened wherever it was found. The North Pacific DPS includes marine waters off of Washington State and turtles in this DPS were listed as endangered. Loggerhead sea turtles do not breed in Washington.
Critical Habitat for Lower Columbia River coho and Puget Sound steelhead	NMFS announced Advanced Notice of Proposed Rulemaking for critical habitat proposals for lower Columbia River (LCR) coho salmon (<i>Oncorhynchus kisutch</i>) and Puget Sound steelhead (<i>O. mykiss</i>).	Proposed rule for critical habitat anticipated in second half of 2012	Both of these species are currently listed as threatened but critical habitat has not yet been proposed or designated. The purpose of this announcement is to solicit comments and information from the public before proposing critical habitat areas. Watersheds under consideration include the lower Columbia River basin in southwest Washington and northwest Oregon, as well as watersheds in Puget Sound and the Strait of Juan de Fuca in Washington.
Whitebark pine	The U.S. Fish and Wildlife Service completed their status review on July 19, 2011. Listing warranted but precluded. Whitebark pine added to candidate list.	Will be proposed as time and resources allow	The U.S. Fish and Wildlife Service completed their review of the petition to list whitebark pine (<i>Pinus albicaulis</i>) as threatened or endangered on July 19, 2011 . The finding found that the petition was warranted but precluded by higher priority actions. The species will be added to the candidate list. Whitebark pine is found on high elevation, cool, moist or dry sites in mountain ranges of western North America, including the Selkirks, Olympics, and Cascades in Washington. Almost all stands (98%) are found on public lands. The cones fall to the ground unopened, and the large seeds are primarily disseminated by Clark's nutcrackers when the cones decay; bear eat the cones whole. Threats to whitebark pine include white pine blister rust (an introduced fungal pathogen), mountain pine beetle, warming alpine climate, and fire suppression management practices that have allowed the replacement of whitebark pine stands with more shade tolerant tree species.
Wolverine (<i>Gulo gulo luscus</i>)	USFWS determined listing is warranted but precluded by higher priority listings. The species was designated as a candidate	Will be proposed as time and resources allow	On December 14, 2010 , the USFWS announced that the proposed listing of the North American wolverine (<i>Gulo gulo luscus</i>) in the contiguous U.S. as an endangered or threatened species was warranted, but precluded by higher priority actions. The finding designated the wolverine population in the lower 48 states as a candidate species under the Endangered Species Act. There are an estimated 250-300 wolverine left in the North Cascades of Washington and Oregon, the northern Rocky Mountains of Idaho, Wyoming, and Montana, the southern Rocky Mountains of Colorado, Utah, and Wyoming, and the Sierra Nevada of California.
Southern DPS Pacific eulachon Critical Habitat <u>Final Rule</u>	The NMFS proposed critical habitat for the southern DPS of Pacific eulachon on January 5, 2011.	Critical habitat designated 10/20/11	The National Marine Fisheries Service (NMFS) issued a final rule to designate critical habitat for the southern Distinct Population Segment (DPS) of Pacific eulachon (<i>Thaleichthys pacificus</i>) on October 20, 2011 (50 CFR 65324-65352). Ten critical habitat areas were designated in Washington State, with most being tributaries of the Columbia River. Information was also provided on the physical and biological features that are essential to the conservation of the species including freshwater spawning and incubation sites with water flow, freshwater and estuarine migration corridors, and nearshore and offshore marine foraging habitat. The final rule will take effect on December 19, 2011

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Meltwater lednian stonefly	Listing warranted but precluded (http://www.fws.gov/mountain-prairie/species/invertebrates/montanainverts/76FR18684.pdf) on April 4, 2011 Now a candidate species.	Annual 12-month review.	Currently, this species is only documented in Logan Creek, Logan Pass Montana. However, NatureServe indicates that glacier stream habitat found in Washington, South Dakota and Canada may represent sites for the species. The species occurs in very cold glacial meltwater streams with substantial canopy cover and immatures usually on undersides of rocks (typically 40-100 cm diameter) or on pieces of bark or wood. Climate change modeling and predictions indicate that this may be the largest factor affecting the long-term viability of the species.
Umtanum desert buckwheat (<i>Eriogonum codium</i>)	Critical Habitat proposed on May 15, 2012	Final rule mid-2013	Vast majority of proposed critical habitat is on federal land
White Bluffs bladderpod (<i>Physaria douglasii</i> subsp. <i>tuplashensis</i>)	Critical Habitat proposed on May 15, 2012	Final rule mid-2013	Vast majority of proposed critical habitat is on federal land

Species Proposed For Delisting

Species	Date of Proposed Rule	Anticipated Delisting Date	Comments
Steller Sea Lion ★, Eastern DPS	4/18/12	Mid-2013	The most important factor supporting delisting was population trend data between 1977 and 2002 showing that Eastern DPS abundance had increased at an average rate of 3.1 percent per year

Petition Findings and Species Undergoing 12-Month Status Reviews***

Species	Date Petition Received by Services	Petitioned Action	Date of 90-day Petition Finding	Petition Finding	Anticipated Publication Date of 12-Month Status Review	Anticipated Date Petitioned Action Would be Finalized if Proposed Based on 12-Month Status Review	Comments
Lake Sammamish Kokanee ★	7/9/2007	Requests listing as threatened or endangered under the ESA.	5/6/2008	Substantial - petitioned action may be warranted. Status review initiated.	2/6/2009	10/4/2011 Petition not warranted	On October 4, 2011, the U.S. Fish and Wildlife Service announced a 12-month finding on Lake Sammamish kokanee salmon (<i>Oncorhynchus nerka</i>). The finding indicated that a petition to list Lake Sammamish kokanee as threatened or endangered was not warranted (50 CFR Part 17 61298-61307). The USFWS evaluates a species based on the Distinct Population Segment (DPS) policy, which requires that a subspecies or other recognized species group meet DPS criteria, and be considered a valid DPS before listing. The USFWS analysis found that the Lake Sammamish population is geographically and reproductively isolated from other native kokanee and sockeye populations, and genetically and ecologically discrete from other <i>Oncorhynchus nerka</i> populations. However, it also found that Lake Sammamish kokanee are not significant to the remainder of the taxon (there are several other kokanee populations). Therefore it did not meet all of the defining criteria of a valid DPS and was not listable.

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Northern Leopard frog ★	6/5/2006	Requests listing as threatened under the ESA	7/1/2009	Substantial - petitioned action may be warranted. Status review initiated.		10/5/2011 Petition not warranted	The USFWS determined that federally listing this species was not warranted. The Service further concluded that eastern and western populations of n. leopard frog are not markedly distinct, and that western populations do not qualify as a distinct population segment (DPS). They analyzed the species across its entire range, and acknowledged that although many western United States populations are in decline, eastern populations are not. The northern leopard frog was listed in 2000 as an endangered species under the Endangered, Threatened, and Sensitive Species Classification in Washington State after surveys of 17 known historic locations confirmed occupancy at only two sites. Historically, the northern leopard frog occurred in six major watersheds in eastern Washington. However, extensive surveys conducted at Gloyd Seeps and Potholes Reservoir in 2002–2005 indicate that the Gloyd Seeps population is likely no longer a functional breeding population and the Potholes Reservoir population is in sharp decline.
Pale blue-eyed grass	7/24/2007	Requests listing as threatened under the ESA	8/18/2009	Substantial - petitioned action may be warranted. Status review initiated.	8/18/2010. 12-month finding has not been published to date.	8/18/2011	The pale blue-eyed grass is endemic to Klickitat, Skamania and Yakima Counties in south-central Washington and Clackamas County, Oregon. The species is listed as a state threatened species in Washington. Pale blue-eyed grass occurs in seasonally moist meadows and openings from 1600-4200 feet in elevation dominated by grasses and sedges. The sites are often flat, covered in snow during winter and bordered by lodgepole pine, Engelmann spruce and hardhack. Known sites in Washington are located in the vicinity of Mt. Adams, but other unknown sites may occur on Gifford Pinchot, Yakama Nation Reservation and private lands. The largest threats to the species are identified as cattle grazing, development, gene flow reduction and off-road vehicle use.
Sand verbena moth	2/17/2010	Requests listing as threatened or endangered under the ESA	2/17/2011	Substantial - petitioned action may be warranted. Status review initiated.	2/17/2012. Has not been published to date	2/17/2013	On February 17, 2011, the U.S. Fish and Wildlife Service announced a 90-day finding on the sand verbena moth (<i>Copablepharon fuscum</i>). The finding indicated that the <u>petition to list</u> the species as threatened or endangered <u>was warranted</u> , and the Service will conduct a status review.

Bold = U.S. Fish & Wildlife Service Jurisdiction; Non-bold = NOAA Fisheries National Marine Fisheries Service Jurisdiction

* Section 4(b) of the ESA states that designation of critical habitat should occur at the same time as the final ruling, unless the secretary deems that critical habitat is not then determinable, in which case the time to critical habitat designation maybe extended by 1 year.

** Section 4(d) of the Endangered Species Act (ESA) directs NOAA Fisheries to issue regulations to conserve species listed as threatened. This applies particularly to “take,” which can include any act that kills or injures fish, and may include habitat modification. The ESA prohibits ANY take of species listed as endangered, but some take of threatened species that does not interfere with salmon survival and recovery can be allowed.

*** If the 12-month status review finds in favor of the petitioned action, species will be proposed for listing and removed from this table, and added to the "Species Proposed for Listing" table above.

★ These species are the species that are likely to be most affected by WSDOT projects.

Red text – Anticipated Federal Register publication dates that have not yet happened.

Blue text – Final Rule has been published in the Federal Register.

¹ See Vol. 73 of the Federal Register, pages 23170-23173, April 29, 2008 for more information. Available: <http://ecos.fws.gov/speciesProfile/SpeciesReport.do?spcode=B06W>