

evaluated that information in relation to information readily available in our files. On the basis of our review, we find that the petition does not present substantial scientific or commercial information to indicate that listing the American dipper in the Black Hills of South Dakota may be warranted. This finding is based on the lack of substantial scientific evidence to indicate that the American dipper in the Black Hills of South Dakota constitutes a valid DPS. Although the population is discrete, neither the information in the petition nor the information readily available in our files constitutes substantial scientific information that the Black Hills dipper population is significantly unique in relation to the remainder of the taxon. Therefore, we conclude that the American dipper in the Black Hills of South Dakota is not a listable entity pursuant to section 3(15) of the ESA. We will not be commencing a status review in response to this petition. However, we will continue to monitor the taxon's population and status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the American dipper across its range. We encourage interested parties to continue to gather data that will assist with these conservation efforts. New information should be submitted to the Field Supervisor, South Dakota Ecological Services Office (see **ADDRESSES**).

The petitioners also request that critical habitat be designated for this species. The petition does not present substantial information that the American dipper is a DPS so we need not address the designation of critical habitat at this time.

#### References Cited

A complete list of all references is available upon request from the Field Supervisor (see **ADDRESSES**).

#### Author

The primary authors of this document are staff at the South Dakota Ecological Services Office (see **ADDRESSES**).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 19, 2006.

**Thomas O. Melius,**

*Acting Director, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Marine Fisheries Service

#### 50 CFR Parts 223 and 224

[Docket No. 060113009-6009-01; I.D. 010506D]

#### Endangered and Threatened Species; Notice of 90-day Finding on a Petition to List the North Pacific Right Whale as an Endangered Species Under the Endangered Species Act

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of petition finding; request for information; and initiation of status review.

**SUMMARY:** NMFS announces a 90-day finding regarding a petition to list the North Pacific right whale, *Eubalaena japonica*, as an endangered species under the Endangered Species Act of 1973, as amended (ESA). After review, NMFS finds that the petition presents substantial scientific information indicating that this action may be warranted. NMFS is initiating a review of the status of the North Pacific right whale, and is soliciting data, information, and comment on the subject action.

**DATES:** To be considered in the 12-month finding, information and comments should be submitted to NMFS by April 26, 2006.

**ADDRESSES:** Data, information, or comments concerning this petition should be submitted to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- E-mail: 0648-XB41-NPRW@noaa.gov. Include in the subject line the following document identifier: North Pacific Right Whale Listing. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand delivery to the Federal Building: 709 W. 9th Street, Juneau, Alaska.
- Fax: (907) 586-7012.
- Federal e-rulemaking portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, AK 99517, telephone (907) 271-5006, fax (907) 271-3030, Ms. Kaja Brix, NMFS, (907) 586-7235, fax (907) 586-7012; or Dr. Kate McFadden, NMFS, (301) 713-1401, fax (301) 427-2523.

## SUPPLEMENTARY INFORMATION:

### Background

Section 4(b)(3)(A) of the ESA, as amended (16 U.S.C. 1531 *et seq.*) requires that NMFS make a determination as to whether a petition to list a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. If NMFS finds that substantial scientific information is presented, it is required to promptly commence a review of the status of the species involved if one has not already been initiated.

NMFS has made a 90-day finding on a petition to list the North Pacific right whale. The petition, dated August 16, 2005, was submitted by the Center for Biological Diversity, P.O. Box 40090, Berkeley, CA 94704-4090, and was received by NMFS on August 19, 2005. Petitioner requests NMFS to list the North Pacific right whale as a new species, *Eubalaena japonica*, and to designate the species as endangered under the ESA. Its request is based, in part, on recent scientific information which establishes a new taxonomic classification for the right whale. This reclassification would recognize the North Pacific right whale as the new species *E. japonica*.

NMFS has reviewed the petition, the literature cited in the petition, and other literature and information available in NMFS files. On the basis of that information, we find the petition presents substantial scientific information indicating that the requested action may be warranted. NMFS' finding is based in part on recent scientific papers recognizing the North Pacific right whale as genetically distinct from the North Atlantic right whale, as well as recent findings of the International Whaling Commission on the subject. We request any information regarding the taxonomy and status of the North Pacific right whale, its habitat, biology, movements and distribution, threats to the species, or other pertinent information. A copy of the petition may be viewed at the NMFS website: <http://www.fakr.noaa.gov/protectedresources/whales/default.htm>

### Authority

The authority for this action is the ESA, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 20, 2006.

**John Oliver,**

*Deputy Assistant Administrator for  
Operations, National Marine Fisheries  
Service.*

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