

Status Report: Threatened and Endangered Wildlife Species in Oregon, Listed under the Oregon Endangered Species Act, January 2013

Five-year Periodic Review ORS 496.171 through 496.182; and OAR 635-100-0011, a 635-100-0012 and 635-100-0120

SUMMARY

The species accounts that follow are for wildlife species taxa presently included on Oregon's lists of threatened and endangered species listed under the Oregon Endangered Species Act (OESA) ORS 496.171 through 496.192 and OAR 635-100-0125. These accounts were prepared as part of a periodic review of state-listed species required by the Oregon Endangered Species Act to determine whether the species should continue to be listed, or reclassified (i.e. threatened to endangered or endangered to threatened), or delisted.

The OESA was enacted by the Oregon Legislature in 1987. It included all species incorporated on the Commission's approved list, which was first established in 1975, plus those native species occurring in Oregon that were listed as threatened or endangered under the federal Endangered Species Act (ESA) as of May 1973, as amended. The Oregon Endangered Species Act required a review by July 1989 of all species on the state list at that time which were not federally listed. These species included the "spotted frog" (which has since been split taxonomically into two separate species), western snowy plover, kit fox, wolverine, and northern spotted owl. All of these species were reaffirmed on the list except for spotted frog.

The first formal five-year review occurred in December 1993, followed by a review in 1998. This review constitutes the third complete review. In the interim, several species have been added (e.g. marbled murrelet and Washington ground squirrel) and removed (delisted) (e.g. American peregrine falcon, Aleutian Canada goose, arctic peregrine falcon, bald eagle, and Columbian white-tailed deer), from the state lists and all species have been kept under review. ORS 496.182 directs the agency to minimize duplication and overlap between the state and federal laws dealing with threatened species or endangered species. Federally listed species, including those grandfathered species have all been reviewed U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) with input from ODFW. No other changes to species' status have been recommended for listed species since the last formal review.

The individual species outlines that follow (Attachment 4) include a brief history of when and why each species was placed on the OESA list, and justification for continued listing. In addition a summary of the best available scientific and other data follows, and where appropriate, recommendations for reclassification or removal from the lists are presented.

The OESA defines an endangered species as any native wildlife species determined by the Commission to be in danger of extinction throughout any significant portion of its

range within the state; or any native wildlife species listed as an endangered species pursuant to the federal ESA. A threatened species is any native wildlife species the Commission determines is likely to become an endangered species within the foreseeable future throughout any significant portion of its range within this state; or any native wildlife species listed as a threatened species pursuant to the federal ESA (OAR 635-100-0100). The criteria for listing (or reclassifying or delisting) a species are found in OAR 635-100-0105. A "native" is a species indigenous to Oregon, not introduced. Indigenous species include species that occur naturally or were extirpated from the state.

In listing a species the Commission has to determine that the natural reproductive potential of the species is in danger of failure due to limited population numbers, disease, predation or other human or human-related factors affecting its continued existence in the state. In removing a species from the lists the opposite finding has to be made, that the natural reproductive potential of the species is not in danger of failure and therefore no longer qualifies for listing under the Act.

In making a change in status the Commission has to determine that one or more of the following factors exist: that most populations of the species are undergoing imminent or active deterioration of their range or primary habitat; that overutilization of the species or its habitat for commercial, recreational, scientific or educational purposes is occurring or is likely to occur; or existing state or federal programs or regulations are inadequate to protect the species and its habitat. Decisions for a change in status have to be based upon scientific information which is documented and verifiable information related to the species' biological status. Verifiable under the OESA means scientific information reviewed by a scientific peer review panel of outside experts who do not otherwise have a vested interest in the process. Information that would be considered "verifiable" includes, but is not limited to: articles and information published in peer-reviewed scientific journals; information developed by ODFW, which has been peer reviewed by outside experts; information developed by federal agencies, which has been peer reviewed (e.g., peer-reviewed agency management plans, final environmental impact statements, adopted recovery plans, interagency technical reports; periodic reviews); and peer-reviewed data gathered by ODFW or others using standard methodologies or protocols.

Since the last formal review several species determined by staff to qualify for delisting (removal from protection under the OESA) include: Columbian white-tailed deer in 1995; the Aleutian Canada goose in 2005; the America peregrine falcon in 2007; the arctic peregrine falcon in 2007; and bald eagle in 2012. These species were removed through the rule-making process.

Two species have been added to protection measures under the OESA: the marbled murrelet was added as a threatened species in 1995 and the Washington ground squirrel was added as an endangered species in 2000.

There are some issues that ODFW recommends in future rule-making:

- Administratively amending the revised scientific taxonomic name for the western snowy plover from *Charadrius alexandrinus nivosus* to *Charadrius nivosus nivosus* to reflect scientific consensus (American Ornithologists' Union) and a previous decision made by USFWS in June 2012 (Federal Register 77 FR 36727 36869).
- For Washington ground squirrel change scientific name of genus due to accepted taxonomic change: from *Spermophilus* to *Urocitellus* (Helgren et al. 2009, USFWS 2010).
- For short-tailed albatross change scientific name of genus due to accepted taxonomic change: from *Diomedea* to *Phoebastria* (AOU 1998).
- Amend scientific and vernacular name of “Black Right Whale” to “North Pacific Right Whale” and change the scientific name to reflect current science from *Eubalaena glacialis* to *Eubalaena japonica* (National Marine Fisheries Service Federal Register 73 FR 12024, March 6, 2008) and identifies the species maybe occasionally encountered in the ocean offshore from Oregon.
- Change (rename) the vernacular name for “wolverine” to “North American Wolverine” a name which is now in common usage.

Staff recommends, based upon verifiable scientific information at this time, to seek removal (delisting) of the brown pelican and gray whale from OESA protection. Delisting criteria in the OESA and implementing rules, do not currently allow for findings to be made to delist these two species; as neither breed in Oregon but are migrants to or through the state. Both species have recovered under the federal ESA. In a similar situation previously, removing the Aleutian Canada goose from protection under the Oregon Endangered Species Act in 2005, required legislative direction and action (HB 2881; ORS 496.176(9)(b)).