

Dated: June 27, 2003.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List a Distinct Population Segment of the Fisher in Its West Coast Range as Endangered and To Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to list a distinct population segment (DPS) of the fisher (*Martes pennanti*) in its West Coast range, including portions of California, Oregon, and Washington, as endangered and to concurrently designate critical habitat in accordance with the Endangered Species Act of 1973, as amended. We find the petition presents substantial information that the West Coast population of the fisher may be a distinct population segment for which listing may be warranted. We are initiating a status review to determine if listing this population is warranted.

DATES: The finding announced in this document was made on July 3, 2003. To be considered in the 12-month finding on this petition, comments and information should be submitted to us by September 8, 2003.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, CA 95825-1846. The petition finding and supporting information are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jesse Wild, at the address given above (telephone 916/414-6600; facsimile 916/414-6713; electronic mail: fisher@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that the

Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of the date we received the petition, and publish the notice of the finding promptly in the **Federal Register**. Our standard for substantial information for petitions is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial information was presented, the Act requires that we promptly commence a review of the status of the species involved.

On December 5, 2000, we received a petition, dated November 28, 2000, to list a DPS of the fisher in its West Coast range, including portions of California, Oregon, and Washington, as endangered pursuant to the Act, and to concurrently designate critical habitat. The petitioners include 19 organizations and one individual, with the lead organizations identified as the Center for Biological Diversity and the Sierra Nevada Forest Protection Campaign. We have reached our 90-day finding on this petition in accordance with an April 4, 2003, order by the U.S. District Court, Northern District of California. The order requires us to complete a finding by July 3, 2003 (*Center for Biological Diversity v. Norton*, Order Granting Plaintiffs' Motion for Summary Judgment, No. C 01-2950 SC).

Biology and Distribution

The fisher is classified in the order Carnivora, family Mustelidae, which also includes weasels, mink, martens, and otters. It is a member of the genus *Martes*, and occurs only in North America. Goldman (1935 as cited in Powell 1993) recognized three subspecies of fisher, although he stated they were difficult to distinguish: *Martes pennanti pennanti* in the east and central regions; *M. p. columbiana* in the central and northwestern regions; and *M. p. pacifica* in the western region. Subsequent analyses, however, questioned whether there is a sufficient basis to support recognition of different subspecies (Grinnell *et al.* 1937; Hagmeier 1959). Recent consideration of genetic variation indicates patterns of population subdivision similar to the earlier described subspecies, although it is not clear whether Goldman's designations of subspecies are

taxonomically valid (Kyle *et al.* 2001; Drew *et al.* 2003).

Fishers occur in the northern coniferous and mixed forests of Canada and northern contiguous United States, from the mountainous areas in the southern Yukon and Labrador Provinces in Canada southward to central California and Wyoming, the Great Lakes, New England, and Appalachian regions (Graham and Graham 1994; Powell 1994). The current distribution of fishers is much reduced from the historical distribution (Gibilisco 1994). The distribution has recovered since the 1950s in some of the central and northeastern areas, a change attributed to factors such as trapping closures and reintroductions (Brander and Books 1973; Powell and Zielinski 1994).

In Washington, Oregon, and California, fishers probably occupied most coniferous forest habitats prior to extensive settlement by Europeans (Grinnell *et al.* 1937; Bailey 1936 and Dalquest 1948 as cited in Aubry and Lewis in press 2003). They use low-to mid-elevational forests up to 8,200 feet (ft) (2,500 meters (m)) (Grinnell *et al.* 1937; Schempf and White 1977; Aubry and Houston 1992). Extensive trapping in the 1800s and 1900s is frequently cited as the principal initial cause of the substantial reduction of the range of the fisher in all three States. Commercial trapping of the fisher has been prohibited in each of these States for decades. Other factors consistently identified as contributing to the reduction of the fisher's distribution in these states include the alteration of forest habitats as a result of logging and conversion to other land uses (e.g., Grinnell *et al.* 1937; Powell 1993; Powell and Zielinski 1994; Lewis and Stinson 1998; U.S. Department of Agriculture (USDA) Forest Service 2000).

In Washington, the fisher historically occurred both east and west of the Cascade Crest (Scheffer 1938; Aubry and Houston 1992), in the Olympic Peninsula, and probably in southwestern and northeastern Washington (Lewis and Stinson 1998). An estimated 15 million acres (ac) (60,700 square kilometers (km²)), or 60 percent of the forested landscape in the State, was potential fisher habitat when European settlers arrived (Lewis and Stinson 1998). Based on extensive surveys and a lack of recent sightings or trapping reports, the fisher currently is considered to have been extirpated or reduced to scattered individuals in Washington (Aubry and Houston 1992; Lewis and Stinson 1998). The State has listed the fisher as endangered (WAC 232-12-297).