

supervision of children, and participation in school and community activities.

Many of the proponents of the status quo argued that the current system works well and causes little confusion. Similarly, most appear to believe that a change would inconvenience them personally and make their lives difficult in some way.

Under the law, we are required to balance all the information in the record. Based on the information presented and the overwhelming community sentiment voiced in the record that a change would not "suit the convenience of commerce," I am hereby denying the petition. The Commission is welcome to file another petition if circumstances change in the future.

Issued in Washington, DC on August 29, 2003.

Rosalind Knapp,

Deputy General Counsel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-A145

Endangered and Threatened Wildlife and Plants; Withdrawal of the Proposed Rule to List the Mountain Plover as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Fish and Wildlife Service (Service), determine that the action of listing the mountain plover (*Charadrius montanus*) as threatened, pursuant to the Endangered Species Act of 1973, as amended (Act), is not warranted, and we consequently withdraw our proposed rule and our proposed special rule. We make this determination because threats to the species as identified in the proposed rule are not as significant as earlier believed, and current available data do not indicate that the threats to the species and its habitat, as analyzed under the five listing factors described in section 4(a)(1) of the Act, are likely to endanger the species in the foreseeable future throughout all or a significant portion of its range.

ADDRESSES: The supporting documentation for this rulemaking is available for public inspection, by appointment, during normal business

hours, at the U.S. Fish and Wildlife Service Field Office, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506-3946, telephone: 970-243-2778, facsimile 970-245-6933, or e-mail al_pfister@fws.gov. Pertinent information also is available at the Web site <http://www.r6.fws.gov/mtnplover/>.

FOR FURTHER INFORMATION CONTACT:

Allan Pfister, Assistant Field Supervisor, Grand Junction, Colorado (see **ADDRESSES**), telephone 970-243-2778; facsimile 970-245-6933.

SUPPLEMENTARY INFORMATION:

Background

The mountain plover (*Charadrius montanus*) is a small bird averaging 21 centimeters (8 inches) in body length and is similar in size and appearance to a killdeer (*Charadrius vociferus*). It is light brown above with a lighter colored breast, but lacks the contrasting dark breastbelt common to most other plovers, including the killdeer. Mountain plovers are insectivores; beetles, grasshoppers, crickets, and ants are its principal food items (Stoner 1941, Baldwin 1971, Rosenberg *et al.* 1991, Knopf 1998).

The mountain plover is associated with shortgrass and shrub-steppe landscapes throughout its breeding and wintering range. Historically, on the breeding range, the plover occurred on nearly denuded prairie dog colonies (Knowles *et al.* 1982, Olson-Edge and Edge 1987) and in areas of major bison concentrations where vegetation was clipped short (Knopf 1997). Currently, the mountain plover also is found on human-made landscapes (*e.g.*, sod farms and cultivated fields) that may mimic their natural habitat associations, and on other sites with little vegetative cover (*e.g.*, alkali flats). As mountain plovers are usually associated with sites that are modified by grazing and digging mammals (kangaroo rat (*Dipodomys* sp.) precincts and California ground squirrel (*Spermophilus beecheyi*) colonies on wintering grounds in California, as well as prairie dog colonies on the breeding grounds), Knopf and Miller (1994) suggested classifying the mountain plover as a species more closely associated with disturbed prairie sites, rather than pristine prairie landscapes.

Mountain plovers nest in the Rocky Mountain and Great Plains States from Montana south to Nuevo Leon, Mexico. Most mountain plovers breed in Montana, Wyoming, and Colorado, with substantially fewer breeding birds occurring in Arizona, Kansas, Nebraska, New Mexico, Oklahoma, Texas, and Utah. Breeding was confirmed in 1999 in Mexico on a Mexican prairie dog

(*Cynomys mexicanus*) colony in the State of Nuevo Leon (Desmond and Ramirez 2002). Nesting habitat in Canada is restricted to southeastern Alberta and southwestern Saskatchewan. Nesting has not been documented in Canada since 1990.

Breeding adults, nests, and chicks have been observed on cultivated lands in Colorado, Kansas, Nebraska, Oklahoma, and Wyoming (Shackford and Leslie 1995; Shackford *et al.* 1999; V. Dreitz, Colorado Natural Heritage Program, in litt. 2003; Young and Good 2000). The majority of mountain plovers winter in California, where they are found mostly on cultivated fields. However, they also can be found on grasslands or landscapes resembling grasslands (Edson and Hunting 1999, Knopf and Rupert 1995, Wunder and Knopf 2003). Wintering mountain plovers also are reported in Arizona, Texas, and Mexico, but fewer have been documented at these locations than in California.

Historically, the mountain plover has been found in a variety of habitats during winter, including grasslands and agricultural fields in California (Belding 1879 in Grinnell *et al.* 1918; Tyler 1916; Grinnell *et al.* 1918; Preston 1981 in Moore *et al.* 1990; Werschkull *et al.* 1984 in Moore *et al.* 1990). Irrigated farmlands—burned Bermuda grass fields and grazed alfalfa fields—in the Imperial Valley of California, where desert scrub has been converted to agriculture within the past 100 years, have become the predominant winter habitat for mountain plovers (Wunder and Knopf 2003, AMEC Earth and Environmental 2003). There, plovers move onto fields for short periods following harvest, especially where the fields are turned over, burned, or grazed by sheep. Insect availability, furrow depth, size of dirt clods, and the vegetation of contiguous land parcels are believed to influence the suitability of individual cultivated fields (E. Marquis-Brong, in litt. 1999). Therefore, while cultivated lands are abundant throughout the Central and Imperial Valleys, not all of them are suitable wintering habitat. Because annual climatic changes in the Central Valley can greatly influence vegetative structure within a given year, mountain plover observations at traditionally occupied sites decline in years when abundant rainfall causes vegetation to become too tall (E. Marquis-Brong, Bureau of Land Management (BLM), in litt. 1999).

Historically, breeding mountain plovers were reported as locally rare to abundant, and widely distributed in the Great Plains region from Canada south