



Billing Code 4333–15

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[FF09E21000 FXES11110900000 201]**

**Endangered and Threatened Wildlife and Plants; Findings on a Petition To Delist the Distinct Population Segment of the Western Yellow-Billed Cuckoo and a Petition to List the U.S. Population of Northwestern Moose**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notification of findings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 12-month findings on a petition to remove the distinct population segment (DPS) of the western yellow-billed cuckoo from the List of Endangered and Threatened Wildlife (i.e., to “delist” that DPS) and a petition to list a DPS of the U.S. population of northwestern moose under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to delist the DPS of the western yellow-billed cuckoo. However, we ask the public to submit to us at any time any new information relevant to the status of the DPS of the western yellow-billed cuckoo or its habitat. We also find that the U.S. population of northwestern moose does not meet the criteria for discreteness as a DPS and the petitioned northwestern moose DPS is not a listable entity under the Act.

**DATES:** The findings in this document were made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Detailed descriptions of the bases for these findings are available on the Internet at <http://www.regulations.gov> under the following docket numbers:

Species	Docket Number
Yellow-billed cuckoo	FWS-R2-ES-2020-0004
Northwestern moose	FWS-R3-ES-2016-0061

Please submit any new information, materials, comments, or questions concerning this finding to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:**

Species	Contact Information
Yellow-billed cuckoo	Jeff Humphrey, Field Supervisor, 602-242-0210, <a href="mailto:jeff_humphrey@fws.gov">jeff_humphrey@fws.gov</a> ; or Shawn Sartorius, Project Leader, 505-346-2525, <a href="mailto:shawn_sartorius@fws.gov">shawn_sartorius@fws.gov</a>
Northwestern moose	Sarah Quamme, Field Supervisor, Minnesota-Wisconsin Field Office, 952-252-0092

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**SUPPLEMENTARY INFORMATION:**

**Background**

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contained substantial scientific or commercial information indicating that the petitioned action may be warranted (“12-month finding”). We must make a finding that the petitioned action is: (1) not warranted;

(2) warranted; or (3) warranted but precluded. We must publish these 12-month findings in the *Federal Register*.

### **Summary of Information Pertaining to the Five Factors**

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists. The Act defines “species” as any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines “endangered species” as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and “threatened species” as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering whether a species may meet the definition of an endangered species or a threatened species because of any of the five factors, we must look beyond

the mere exposure of the species to the stressor to determine whether the species responds to the stressor in a way that causes actual impacts to the species. If there is exposure to a stressor, but no response, or only a positive response, that stressor does not cause a species to meet the definition of an endangered species or a threatened species. If there is exposure and the species responds negatively, we determine whether that stressor drives or contributes to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species. The mere identification of stressors that could affect a species negatively is not sufficient to compel a finding that listing is or remains warranted. For a species to be listed or remain listed, we require evidence that these stressors are operative threats to the species and its habitat, either singly or in combination, to the point that the species meets the definition of an endangered or a threatened species under the Act.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the DPS of the western yellow-billed cuckoo meets the definition of “endangered species” or “threatened species,” we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information. Our evaluation may include information from recognized experts; Federal, State, and tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for the western yellow-billed cuckoo contains more detailed biological information, an analysis of the listing factors, and an explanation of

why we determined that this species is not warranted for delisting. Additional background information on the western yellow-billed cuckoo can be found in the proposed listing rule (78 FR 61622; October 3, 2013) and the final listing rule (79 FR 59992; October 3, 2014). This supporting information can be found on the Internet at <http://www.regulations.gov> under Docket No. FWS–R8–ES–2018–0027. The following is an informational summary for the finding.

#### *Western Yellow-billed Cuckoo DPS*

##### Previous Federal Actions

On October 3, 2014, we published a final rule (79 FR 59992) listing the western DPS of the yellow-billed cuckoo (western yellow-billed cuckoo) as a threatened species.

On May 4, 2017, we received a petition from the American Stewards of Liberty, Arizona Cattlemen’s Association, Arizona Mining Association, Hereford Natural Resource Conservation District, Jim Chilton, National Cattlemen’s Beef Association, Public Lands Council, WestLand Resources, Inc., and Winkelman Natural Resource Conservation District, requesting that the western DPS of the yellow-billed cuckoo be removed from the List of Endangered and Threatened Wildlife due to an error in our DPS analysis. They also provided information in their petition indicating the species should be delisted as a result of its documented use of additional habitat. The petition clearly identified itself as such and included the requisite information for the petitioner, required at the time at 50 CFR 424.14(a).

On June 27, 2018, we published a substantial 90-day finding on the petition indicating that delisting the western DPS of the yellow-billed cuckoo may be warranted due to information on additional habitat being used by the species (83 FR 30091). While

we did not find that the petition provided substantial information indicating the entity may warrant delisting due to an error in our DPS analysis, because the petitioners did provide substantial information regarding additional habitat use by the species, we indicated we would review the DPS as part of our status review of the species.

This notice constitutes our 12-month finding on the May 4, 2017, petition to delist the western yellow-billed cuckoo.

#### Summary of Finding

The western yellow-billed cuckoo (*Coccyzus americanus*) is a member of the avian family Cuculidae. It is a migratory bird species, traveling between its wintering grounds in Central and South America and its breeding grounds in North America (Continental U.S. and Mexico) each spring and fall, often using river corridors as travel routes. The western yellow-billed cuckoo's breeding range is known from 12 States in the United States and 6 States in Mexico.

Adult yellow-billed cuckoos have a fairly stout and slightly down-curved bill; a slender, elongated body with a long-tailed look; and a narrow yellow ring of colored, bare skin around the eye. The plumage is loose and grayish-brown above and white below, with reddish primary flight feathers. The tail feathers are boldly patterned with black and white below. They are a medium-sized bird about 12 inches (30 centimeters) in length, and about 2 ounces (60 grams) in weight. The bill is blue-black with yellow on the basal half of the lower mandible. The legs are short and bluish-gray. Males and females differ slightly and are indistinguishable in the field (Hughes 1999, pp. 2–3).

We evaluated the western yellow-billed cuckoo under our “Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species

Act” (DPS Policy; 61 FR 4722, February 7, 1996). We reviewed our DPS analysis from the final listing rule (79 FR 59992; October 3, 2014) and based our review on the available scientific information, including genetics and morphological information. We conclude that the western population segment of the yellow-billed cuckoo is discrete from the remainder of the species because the yellow-billed cuckoo population segment that nests west of the Continental Divide (as defined in the species assessment form) and in northwestern Mexico is markedly separated geographically and behaviorally from all other populations of yellow-billed cuckoo, including those that nest in eastern North America. We conclude that the western population segment of the yellow-billed cuckoo is significant because the loss of the population segment would leave a significant gap in the species’ range that would span seven entire States and substantial portions of five additional States in the United States, and six States in Mexico.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the western yellow-billed cuckoo, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. In the final listing rule (79 FR 59992; October 3, 2014), we identified the primary stressors affecting the western yellow-billed cuckoo’s biological status to include habitat loss and degradation from altered watercourse hydrology and natural stream processes, livestock overgrazing, encroachment from agriculture, conversion of native habitat to predominantly nonnative vegetation, and sedimentation of riparian habitat; poor water quality; and, to a lesser extent, effects of invasive species and the effects of climate change. The cumulative impact from various threats is also a factor that will exacerbate

multiple existing threats to the western yellow-billed cuckoo and its habitat. We found that the threats identified in the final listing rule are still acting on the species and continue to affect the cuckoo's viability. In addition, minerals mining projects negatively impact recently identified occupied habitat in central and southern Arizona. Current yellow-billed cuckoo breeding populations are fragmented and geographically isolated. The western yellow-billed cuckoo continues to meet the definition of a threatened species.

Therefore, we find that delisting the western yellow-billed cuckoo is not warranted. A detailed discussion of the basis for this finding can be found in the western yellow-billed cuckoo species assessment and other supporting documents (see **ADDRESSES**, above).

#### *Northwestern Moose U.S. DPS*

##### Previous Federal Actions

On July 9, 2015, we received a petition from the Center for Biological Diversity and Honor the Earth, requesting that we list the U.S. population of northwestern moose (*Alces alces andersoni*) as an endangered or threatened DPS. On June 3, 2016, we published a 90-day finding that the petition presented substantial scientific or commercial information, indicating that listing the northwestern moose DPS may be warranted (81 FR 35698).

##### Summary of Finding

The moose is the largest member of the deer family. Currently, four subspecies of moose are recognized from North America. The petitioned entity is the U.S. population of the northwestern subspecies of moose (*Alces alces andersoni*), which historically

occurred in Michigan, Minnesota, North Dakota, and Wisconsin. Moose were likely extirpated from the upper and lower peninsulas of Michigan and the State of Wisconsin. Recent reintroductions in Michigan were of the eastern subspecies (*Alces alces americana*), which likely spread into Wisconsin. The current range of the northwestern moose includes Minnesota, North Dakota, and Isle Royale National Park in Michigan.

We have carefully assessed the best scientific and commercial information available regarding the northwestern moose and evaluated the petition's claims that the U.S. population of northwestern moose qualifies as a DPS for listing under the Act. We considered differences in antler size and reproductive behavior, as well as control of moose harvest, management of moose habitat, and the moose's conservation status within the range of the northwestern moose in the United States and Canada. We do not have information that shows a difference, based on physical, physiological, ecological, or behavioral factors, between the populations in the United States and Canada. Further, we find that the U.S. population of northwestern moose is not delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Therefore, we find that the U.S. population of northwestern moose does not meet the criteria for discreteness as a DPS and the petitioned northwestern moose DPS is not a listable entity under the Act. A detailed discussion of the basis for this finding can be found in the northwestern moose species assessment and other supporting documents (see **ADDRESSES**, above).

### *New Information*

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the western yellow-billed cuckoo or the northwestern moose to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

### **References Cited**

A list of the references cited in the petition finding are available on the Internet at <http://www.regulations.gov> in the docket provided above in **ADDRESSES** and upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

### **Authors**

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

**Authority**

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

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**Aurelia Skipwith**  
*Director, U.S. Fish and Wildlife Service.*