

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME OFFICE OF THE COMMISSIONER

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December 22, 2010

Director Geoffrey Haskett
Alaska Regional Office
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503

Re: 2010 USFWS Candidate Notice of Review—ADF&G Comments

Dear Director Haskett:

The Alaska Department of Fish and Game (ADF&G) has reviewed the November 10, 2010 Federal Register proposed rule (Vol. 75, No. 217) regarding the Review of Native Species that are Candidates for Listing as Endangered or Threatened. We are concerned that the background information provided in the 2010 U.S. Fish and Wildlife Service (USFWS) Candidate Notice of Review (CNOR) does not justify the continued listing and unchanged Listing Priority Numbers (LPN) of the yellow-billed loon and Kittlitz's murrelet. The information presented in the 2010 CNOR is not all-inclusive. It does not describe significant weaknesses in the data sets upon which the Candidate listing decisions were made and maintained. Results of recent intensive work on both species have not been included. Based on a careful review of all available information the Department recommends that the yellow-billed loon be removed from the Candidate list and the Kittlitz's murrelet be downgraded to an LPN of 11.

In order to prioritize Candidate species for listing under the Endangered Species Act (ESA), the USFWS assigns all Candidate species an LPN calculated by 1) the magnitude of threats to the species, 2) the immediacy of the threats to the species, and 3) the taxonomic status. The magnitude of threats can be ranked as "high" or "moderate to low." All Candidate species by definition are experiencing threats that put the species at risk of extinction, or make them likely to become in danger of extinction in the foreseeable future (FR Vol. 75, No. 217, pp. 69223), therefore the magnitude criterion is a relative ranking of the severity of threats to a species. The immediacy of threats is categorized by the USFWS as "imminent" or "non-imminent" based on when threats will begin to affect the species. "Imminent" refers to a threat currently impacting a Candidate species, while "non-imminent" refers to a future predicted threat.

The LPN is important in that it prioritizes the Candidate species for threatened and endangered species listing actions. The annual Candidate Notice of Review is integral in determining which species will be allocated a portion of the limited, finite resources that the USFWS has available to list and conserve species. Other agencies and conservation organizations also rely on these rankings to some extent to determine funding and program priorities. A misallocation of funds due to an erroneous ranking utilizing old or imprecise data occurs at the expense of other, more vulnerable or data-deficient species. This is not only possible, but quite likely in the case of the Kittlitz's murrelet.

Kittlitz's Murrelet

This species was listed by the USFWS as a Category 2 Candidate species in 1994. In 2004, the LPN of the Kittlitz's murrelet was downgraded from a 2 to a 5 due to the non-imminence of threats. In 2004 the USFWS estimated the worldwide population at 9,000-25,000 individuals. In 2007 the LPN was upgraded from a 5 back to a 2 due to imminence of perceived threats, and the population estimate was reported as 16,700 birds in the CNOR that year. The 2010 CNOR estimates a worldwide population of 30,900-56,800, yet the LPN remains unchanged apparently due to reported high magnitude and imminent threats.

Large declines in Kittlitz's murrelet abundance between the late 1980s and early 1990s were reported in Alaska. The precision of these counts has since been called into question due to problems with study design and analysis. In recent years, more rigorous, murrelet-specific survey methods have been introduced and population counts during the past decade have reported stable or increasing trends in almost every area surveyed. Declining trends that were significant in the past are no longer significant. Researchers have encountered larger than expected populations of Kittlitz's murrelets in areas such as the Aleutian Islands, Kodiak, and Russia, contributing to an upward revision of the global population size. Given the questions surrounding early population estimates, the ongoing disagreements regarding the magnitude of purported historical population declines, and the current stable to increasing population trends, the decision to continue the LPN ranking of 2 is difficult to understand.

The available data also do not support the claim that Kittlitz's murrelets are currently exposed to high magnitude threats. Although the 2010 CNOR delineates a long and generic list of potential threats to Kittlitz's murrelets, there is little empirical evidence linking any of these threats to significant mortalities or population declines. Some of the identified risk factors exist in only a portion of the Kittlitz's murrelet range (e.g., gillnet fishing and glacial recession), and most of the others (e.g., motor vessel traffic, human disturbance, potential oil spills, change in prey availability) could be considered threats to most or all of the other marine species within the range of the Kittlitz's murrelet. Existing mortality data for Kittlitz's murrelets are restricted to very small sample sizes in terms of numbers of individuals and spatial scale, and can result in grossly overinflated estimates when extrapolated to the entire range of this species. This is confounded by the species behavior, which displays clumped distribution.

The best available scientific evidence simply does not support an LPN of 2 for Kittlitz's murrelets. This species has an estimated population of 30,900-56,800 (Nov. 10, 2010, FR, Vol.

75, No. 217) and is stable or increasing in significant portions of its range. The ESA is designed to identify species that are at high risk of extinction, not to increase numbers to carrying capacity.

To summarize, there is no good evidence to support the assertion that the magnitude of threats to Kittlitz's murrelets is high, imminent, rapidly increasing, or having a significant impact on the worldwide population of this species. Therefore, at a species level, the Kittlitz's murrelet LPN should be lowered to an 11.

The analyses and interpretations presented in the Candidate listing decisions for this species appear to be largely copied from past CNORs, and do not reflect a fresh analysis of the bird's status. Prior to publication, the 2010 CNOR, as with past CNORs, was not circulated outside the USFWS for review. The USFWS would greatly benefit by incorporating the information and expertise of others in the Kittlitz's murrelet listing decisions. In an effort to better understand the considerable disagreement about analyses and interpretation of Kittlitz's murrelet trend data from the 1980s and 1990s when survey methods were not standardized or primarily targeting murrelets, ADF&G has contracted Alaska Biological Research, Inc. to conduct an assessment of historical Kittlitz's murrelet survey information. We will provide this assessment to the USFWS when completed.

Yellow-billed Loon

The USFWS was petitioned to list the yellow-billed loon as threatened or endangered under the ESA in 2008. The USFWS 12-month finding published in 2009 resulted in a "warranted but precluded" decision, and the yellow-billed loon was added to the Candidate species list with an LPN of 8. The 2010 Candidate Notice of Review leaves the status of the yellow-billed loon unaltered.

ADF&G has two concerns with the USFWS decision to list and maintain the yellow-billed loon as a Candidate species under the ESA. First, the initial listing and subsequent CNORs fail to include all available data on subsistence harvest pertinent to these decisions, and second, significant weaknesses have been identified in the subsistence harvest data used by the USFWS to justify and maintain the Candidate listing for the yellow-billed loon.

The primary threat to yellow-billed loons identified by the USFWS is subsistence harvest. However, the USFWS did not include several existing relevant sources of subsistence harvest information regarding loons in its listing decision documents. The USFWS 12-month petition finding (2009) references some reports regarding avian subsistence harvest in Alaska, but it does not include a number of other available documents including data on the subsistence harvest of loons in Alaska written by the ADF&G Division of Subsistence, Alaska Native organizations, and private consulting organizations.

Since the 12-month finding (2009), significant weaknesses have been identified in the North Slope and Bering Strait subsistence harvest estimates of yellow-billed loons. Two white papers drafted by ADF&G (Naves August 3, 2010) and USFWS (Dewhurst August 4, 2010 draft)

articulate some of the difficulties in collecting subsistence harvest data for species rarely taken, such as the yellow-billed loon. The standard statewide Alaska Migratory Bird Co-Management Council (AMBCC) harvest survey likely provides a good measure of commonly taken species, but does not provide precise estimates for rarely taken species such as the yellow-billed loon. Recent discussions have initiated a review of the AMBCC harvest survey so that it specifically addresses harvest of rarely taken species of conservation concern. Until that information is available, harvest estimates for species like yellow-billed loon should be considered suspect.

The USFWS decision to maintain the yellow-billed loon on the Candidate list is undermined by recent publications by that same agency. The “Intra-agency Conference for Proposed 2010 Alaska Migratory Bird Spring/Summer Subsistence Hunt” (2010 Conference: USFWS, March 19, 2010) provides a detailed analysis of potential problems with subsistence harvest estimates of yellow-billed loons in Alaska. It concludes that the spring/summer subsistence harvest “is not likely to jeopardize” yellow-billed loons. The 2010 Conference and an ADF&G Subsistence Division white paper (Naves July 16, 2010) describe problems regarding mis-identification among the four loon species occurring in the Bering Strait and the North Slope regions, as well as other potential sources of error, such as the listing of yellow-billed loon first at the top of the harvest survey form.

The “Intra-Service Biological Opinion for Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2010 Spring/Summer Harvest” (2010 Biological Opinion: USFWS, April 2, 2010) also delineates potential sources of error in subsistence harvest data for yellow-billed loons, concluding that the “data do not allow for an estimate of harvest with reasonable reliability and precision.” The 2010 Biological Opinion also provides TEK and anecdotal information that does not support harvest estimates of large numbers of yellow-billed loons on St. Lawrence Island.

The 2010 CNOR for yellow-billed loon appears out of date and behind the times. None of the information from the summary white papers, the 2010 Biological Opinion, or 2010 Conference is presented in the 2010 CNOR, and yet these papers were available prior to publication of the Federal Register announcing the CNOR. The USFWS needs to incorporate all available information regarding the subsistence harvest of loons in an objective review of the status of the yellow-billed loon. We can provide you with copies of these documents, including reports with data on the subsistence harvest of loons in Alaska that have been written by the ADF&G Division of Subsistence, Alaska Native organizations, and private consulting organizations, if needed.

Finally, the Federal Register notice announcing the 2010 CNOR makes no mention of yellow-billed loon population estimates or trends. It is important to consider that yellow-billed loon numbers remain stable to increasing throughout their range in Alaska (2010 Conference). There is no indication of a rangewide or localized crash in numbers as one would expect if subsistence harvest was having a significant impact.

In conclusion, the current existing available information does not support the continued Candidate status of this species. Based on this, we recommend removal of this species from the

Candidate list while any impacts to the species from potential risk factors continue to be monitored.

Thank you for the opportunity to provide you with these comments and information. We are willing to assist with review of future decision documents for the Kittlitz's murrelet and yellow-billed loon, and to discuss this information in more detail if you wish. I can be contacted at douglas.vincent-lang@alaska.gov or (907) 267-2339.

Sincerely,



Doug Vincent-Lang
Endangered Species Coordinator

cc: Cora Campbell—ADF&G, Acting Commissioner
Kim Titus—ADF&G, Wildlife Scientist
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