

## Background

Except for permitted exceptions, section 9 of the ESA (16 U.S.C. 1538 *et seq.*) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited (16 U.S.C. 1533(d); 50 CFR 17.31). Regulations governing the permitted exception for allowable incidental take of endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal SHA program, go to: <https://www.fws.gov/endangered/esa-library/pdf/harborqa.pdf>, <https://www.fws.gov/endangered/landowners/safe-harbor-agreements.html>.

## National Environmental Policy Act Compliance

The proposed permit issuance triggers the need for compliance with the NEPA. The draft categorical exclusion (CatEx) was prepared to determine if issuance of a permit, based on the draft SHA, would individually or cumulatively have a minor or negligible effect on the species covered, and would therefore be eligible for a CatEx from further environmental analysis under NEPA.

## Proposed Action

Under the proposed action, the Service would issue a permit to the applicant for a period of 50 years for covered activities (described below) benefitting the Pahrump poolfish by relieving landowners from any additional section 9 liability under the ESA (16 U.S.C. 1531 *et seq.*). Landowners who have suitable habitat for Pahrump poolfish may be enrolled by the applicant under the SHA. Landowners would receive a certificate of inclusion when they sign a cooperative agreement. Thus, the landowners will be authorized to take Pahrump poolfish when the number of species has increased above the baseline established in the SHA and cooperative agreement as a result of the landowner's covered activities. Although the permit and SHA will authorize incidental take of Pahrump poolfish associated with returning the enrolled property to its agreed-upon baseline condition, the Service anticipates that this level of take will not negatively impact the recovery of the species. It is not anticipated that cooperators will continuously seek to return to baseline during the pendency of their cooperative agreements; and during such time, the agreements will create short, mid-range, and long-term benefits for the recovery of the Pahrump poolfish. The applicant has requested a permit for one species, the Pahrump

poolfish (*Empetrichthys latos*), which was, and remains as listed under the ESA as endangered in March 1967.

## Safe Harbor Agreement Area

The geographic scope of this SHA encompasses suitable private and non-Federal lands within Nye, Esmeralda, Lincoln, and Clark Counties, Nevada.

## Covered Activities

The proposed section 10(a) permit would allow incidental take of one covered species from covered activities in the proposed SHA area. The applicant is requesting incidental take authorization for covered activities, including but not limited to operation of vehicles and maintenance equipment, building or fence construction, gardening, hunting, recreational fishing, farming, mining, mowing, maintenance of landscaping and recreational facility infrastructure including irrigation facilities, commercial and non-commercial recreational activities, or cultivation of agricultural crops. As long as enrolled landowners allow the agreed-upon conservation measures to be completed on their property, and agree to maintain their baseline responsibilities, they may make any other lawful use of the property during the term of the cooperative agreement, even if such use results in the take of individual Pahrump poolfish or harm to their habitat. Some of the conservation measures that will be used to achieve this include restoration of springpool and springbrook habitats to approximate historical conditions, removal of aquatic nonnative species, control of invasive weed and plant species, modification of livestock grazing practices, and maintenance of seasonal flooding and soil moisture through pasture irrigation management strategies.

## Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on the draft SHA and associated documents. If you wish to comment, you may submit comments by any of the methods in **ADDRESSES**.

## Public Availability of Comments

Any comments we receive will become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## Next Steps

Issuance of a permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the permit application, the SHA, associated documents, and any public comments we receive during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action and for the potential issuance of an enhancement of survival permit. If the intra-Service consultation confirms issuance of the permit will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

## Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1539(c) and its implementing regulations (50 CFR 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and NEPA implementing regulations (40 CFR 1501.4).

## Glen W. Knowles,

Field Supervisor, Southern Nevada Fish and Wildlife Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R7-ES-2020-N045;  
FXES11140700000-212-FF07CAF00]

### Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Review of the Eskimo curlew (*Numenius borealis*)

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

**ACTION:** Notice; request for information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce our intention to conduct a 5-year status review under the Endangered Species Act of 1973, as amended, for the Eskimo curlew. A 5-year status review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any new information that has become available since the last review of the species in 2016.

**DATES:** To ensure consideration, we must receive your comments and information by September 27, 2021. However, we will accept information about the species at any time.

**ADDRESSES:** Please submit your information by one of the following methods:

- *Email:* Daniel\_Rizzolo@fws.gov; or
- *U.S. mail:* U.S. Fish and Wildlife Service, Attention: Dan Rizzolo, Fisheries and Ecological Services, 101 12th Avenue, Fairbanks, Alaska 99701.

For more about submitting information, see Request for Information in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Dan Rizzolo, by telephone at 907-456-0227. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We are initiating a 5-year status review under the ESA for the Eskimo curlew (*Numenius borealis*). A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any new information on this species that has become available since the last 5-year review was conducted in 2016.

#### Why do we conduct 5-year reviews?

Under the ESA, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Further, our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to <http://www.fws.gov/Endangered/what-we-do/recovery-overview.html>.

#### What information do we consider in our reviews?

In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

- (1) The biology of the species, including but not limited to population trends, distribution, abundance, demographics, and genetics;
- (2) Habitat conditions, including but not limited to amount, distribution, and suitability;
- (3) Conservation measures that have been implemented that benefit the species;
- (4) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the ESA); and
- (5) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for the species.

In the case of the Eskimo curlew, we concluded in our 2016 5-year review that the probability that the species remained extant was extremely low based on the scarcity of recent sightings and the length of time that has passed since the last sighting that was confirmed with physical evidence. We will therefore focus this 5-year review upon reported sightings or other recent information on the species' possible existence. Thus, we ask, in particular, for information on recent sightings, including indication as to whether corroborating evidence (such as photographs) is available.

#### Species Under Review

*Entity listed:* Eskimo curlew (*Numenius borealis*).

- *Where listed:* Wherever found.
- *Classification:* Endangered.
- *Date listed (publication date for final listing rule):* March 11, 1967, under the Endangered Species Preservation Act of 1966.
- *Federal Register citation for final listing rule:* 32 FR 4001.

#### Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See What Information Do We Consider in Our Review? for specific criteria. If you

submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

#### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Completed and Active Reviews

A list of all completed and currently active 5-year status reviews addressing species for which the Alaska Region of the Service has the lead responsibility is available at <https://www.fws.gov/alaska/pages/endangered-species-program/recovery-endangered-species>.

#### Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

#### Peter Fasbender,

*Assistant Regional Director, Fisheries and Ecological Services, Alaska Region.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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AOA501010.999900 253G; OMB Control  
Number 1076-0169]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Probate of Indian Estates, Except for Members of the Osage Nation and Five Civilized Tribes

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA), are proposing to renew an information collection.