

(127). Is it necessary that volunteers within the refuge system be supervised by a paid Fish and Wildlife Service volunteer coordinator or can any federal employee at a refuge fulfill that supervisory role?

Response: *All volunteers must sign a volunteer services agreement to work with the Fish and Wildlife Service. Individuals under the age of 18 must have parental approval to sign up as a volunteer. For necessary work supporting the Refuge System's programs, the volunteer services agreement must be signed by a Service employee who is directly responsible for overseeing the volunteer's work. Individuals who perform volunteer work in support of other Federal agencies should follow the appropriate protocols addressing approval and supervision by government employees.*

Chairman Doc Hastings

For Dan Ashe (U.S. Fish & Wildlife Service)

(128). I and many others were encouraged when last year, the U.S. Fish & Wildlife Service determined that an Endangered Species Act-listing of the dunes sagebrush lizard was not warranted. On page ES-7 of your FY 2014 budget justification, you cite the Texas Conservation Plan and the New Mexico plan for Dunes Sagebrush Lizard, which are Candidate Conservation Agreements with Assurances between the Service, Texas and New Mexico, including private property and state trust lands. The budget justification states that "if the species covered by their CCAA is listed they will not be asked to do more and will not be subject to additional land use restrictions" and that the Texas Plan "would act as a Habitat Conservation Plan (HCP)." On March 14, 2013, the Center for Biological Diversity (CBD) and the Defenders of Wildlife filed a 60-day notice of intent to sue the Service for its decision not to list the sagebrush lizard. I note that, as part of its settlement with the CBD, the Service agreed to allow CBD to file additional lawsuits against the Service. Please explain the Service's rationale for allowing such additional suits in the settlement dated July 12, 2011 filed in the federal district court of the District of Columbia with the Center for Biological Diversity. Does the Service intend to defend in federal court its 2012 decision not to list the dunes sagebrush lizard and the CCAAs the Service entered into with Texas and New Mexico?

Response: *The Service cannot preclude any party from challenging the merits of any of its decisions. The MDL settlement agreement with the Center for Biological Diversity (CBD) does provide that CBD may file lawsuits for missed deadlines on up to 10 species per fiscal year without repercussions to the agreement. Negotiations are a necessary part of the mediation process. Each party must typically make allowances they would prefer not to make in the interest of obtaining a beneficial outcome.*

That said, the MDL settlements did not address merits challenges to the Service's decisions. We stand by our decision not to list the dunes sagebrush lizard and, to date, we have not been sued over the merits of that decision.

(129). Please list all notices of intent to sue and lawsuits that have been filed against the U.S. Fish and Wildlife Service (FWS) relating to any decision the FWS has made in accordance with endangered or threatened species included in either the settlement entered into on July 12, 2011 with the Center for Biological Diversity or the settlement entered into on May 10, 2011 with the WildEarth Guardians? Please provide a copy of all such notices of intent to sue and the case numbers for any lawsuit filed in that regard, the status of the lawsuit or notice of intent to sue, and the Service's actions regarding such notices or lawsuits.

Response: *The following table lists all of the notices of intent to sue and lawsuits that have been filed against the Service related to species covered by the MDL, and the status of the Service's actions regarding the lawsuits. A copy of notices of intent to sue are attached (Appendices 4a – 4f).*

Notices of Intent to Sue

Species	Noticer	Date	Issue	Status
marbled murrelet	American Forest Resource Council	11/8/11	challenging critical habitat and decision on petition to delist	lawsuit filed
wolverine	Cottonwood Environmental Law Ctr	2/15/12	challenging warranted but precluded finding	lawsuit filed
cactus ferruginous pygmy owl	Center for Biological Diversity	3/28/12	challenging not warranted 12-month finding	lawsuit filed
mist forestfly	WildEarth Guardians	7/2/12	challenging failure to emergency list and the listing priority number	not filed
TX salamanders	National Association of Homebuilders	8/30/12	Challenging MDL Agreements	lawsuit filed
Mexican wolf	Center for Biological Diversity	10/11/12	not warranted finding	lawsuit filed
Mexican wolf	WildEarth Guardians	10/31/12	not warranted finding	not filed
dune sagebrush lizard	Defenders and Center for Biological Diversity	3/14/13	not warranted finding	not filed

Lawsuits

Species	Date filed	Case name	Case number	Allegation	Status
Marbled Murrelet	1/24/2012	American Forest Resource Counsel et al	12-111	challenging listing and CH	Court denied motion for consent decree and remanded 12-month finding to the Service for a determination on whether the CA population interbreeds when mature
wolverine	4/13/2012	Cottonwood Environmental Law Center and BCA	12-57	WBP finding on the wolverine-specifically challenging the LPN	Cse dismissed Feb 2013
Cactus ferruginous pygmy owl	8/21/2012	Defenders of Wildlife and CBD		Merits of not warranted finding	Case dismissed Jan 2013
Mexican wolf	12/10/2012	CBD	12-1970	not warranted 12-month finding	Case stayed until May 15, 2013
2010 CNOR species	12/17/2012	National Association of HomeBuilders	12-2013	challenging MDL Agreements	Briefing Motion to Dismiss filed by Service

(130). Please provide a complete list of all petitions for listings the Service has received that are not included in the two 2011 settlement agreements described in question 2 above. For each of these petitions, please describe any action the Service has taken in response to each such petition. On page ES-11 of the Service’s FY 2014 budget justification, it states the Service “intends to address 6 petition findings, 90-day and 12-month, for 6 species in FY 2014.” Please identify which species are included in these petitions.

Response: *The Service has received petitions for listing for the following six species that are not included in the two 2011 settlement agreements described in question 2 above. For each, we describe the action that the Service has taken or will take in response to each petition.*

<u>Petitioned Species</u>	<u>Action</u>
<i>Gunnison’s prairie dog</i>	<i>substantial 90-day finding completed; 12-month finding to be done in FY14</i>
<i>Coleman’s coral-root</i>	<i>substantial 90-day finding completed; 12-month finding to be done in FY14</i>
<i>Island marble butterfly</i>	<i>evaluation not initiated; 90-day finding to be done in FY 14</i>
<i>Leoncita false-foxglove</i>	<i>evaluation not initiated; 90-day finding to be done in FY 14</i>
<i>Clear Lake hitch</i>	<i>evaluation not initiated; 90-day finding to be done in FY 14</i>

Virgin River spinedace evaluation not initiated; 90-day finding to be done in FY 14.

(131). Please provide the amount (in dollars) the FWS (through the Judgment Fund or EAJA) has paid to litigants that have sued the Department for endangered species programs from fiscal year 2002 through the present.

Response: *Attached please find information regarding payments made pursuant to EAJA by the Service from 2002 through the present for litigation related to the endangered species program. The Service does not track payments made from the Judgment Fund and cannot provide an accurate accounting of these payments, apart from the previously obtained information related to the MDL Agreements (Appendix 5).*

(132). Can you please provide a complete list of all grants and assistance provided between fiscal year 2009 and the present?

Response: *Please see the Cooperative Endangered Species Conservation Fund Grant Award Table attached (Appendix 6).*

(133). Please provide a complete list of all final rules for species included in either the July 12, 2011 settlement with the Center for Biological Diversity or the May 10, 2011 settlement with the WildEarth Guardians that were listed during FY 2012 and FY 2013 as either threatened or endangered and/or the amount of critical habitat that was designated as part of any such rule.

Response: *Please see attached list of all final rules for species included in the MDL settlement agreements that were listed during FY 2012 – 2013 as either threatened or endangered and the amount of critical habitat that was designated (Appendix 7).*

(134). Page ES-10 of the Service’s FY 2014 budget justification states that “the Service anticipates publishing 31 final critical habitat rules (for 44 species) and 1 proposed critical habitat rule in FY 2014.” Please provide a list of each species the Service intends to publish rules designated (or not) critical habitat in FY 2014, and whether the Service will include private property.

Response: *Since the submission of the information presented in the President’s FY 2014 Budget Request in February 2013, the timing of some listing packages has shifted, and therefore the number of actions has changed. The most current information on workload planning for the listing program can be found on our publically available website at the link below. The work plan presents work activities from FY13-FY 18. The spreadsheet can be sorted by fiscal year to show only those actions scheduled for FY 14. This workload planning document will be updated, as needed.*

http://www.fws.gov/endangered/improving_ESA/listing_workplan_FY13-18.html

With regards to the critical habitat designation that will either be proposed or finalized in FY 14, information related to whether private lands will or will not be included is not available at this time. The designations that will be proposed are currently being developed so there has been no decision as to whether private lands will meet the definition of critical habitat for the subject species and ultimately be proposed for inclusion. For the designations being finalized in FY 14, information from the public comment periods on proposals is still being evaluated as the final rules are being developed. As a consequence, it is too early to identify to what extent private lands will or will not be included in the final designations of critical habitat.

(135). On page ES-10 of the Service’s FY 2014 budget justification, you correctly note that the Service “believes there is a higher conservation benefit in listing domestic species” than foreign species. Yet, page ES-11 of the budget justification suggests the Service intends to complete 6 final listing determinations for 7 foreign species, 2 proposed listing determinations for 2 foreign species, one 90-day petition for 11 foreign species, and three 12-month petition findings for 3 foreign species, a total of 19 actions involving 22 foreign species—just for FY 2014. It appears the Service is allocating \$1.5 million to listing decisions “for species that are not indigenous to the United States.” In addition, in March of this year, you and more than two dozen other executive branch employees traveled to Bangkok, Thailand for two weeks for an international convention relating to foreign endangered species issues. The estimated cost to taxpayers for this trip was over \$225,000. Please outline the number of FTEs that are specifically devoted to handling foreign species petitions or other actions relating to foreign species and the Service’s rationale for devoting so much staff and federal resources to non-indigenous species during these tight fiscal times.

Response: *The Endangered Species Act does not distinguish between foreign and domestic species with respect to listing, delisting, and reclassification. The Act requires the Service to respond to petitions and to list species within specified timeframes for both foreign and domestic species. The funding sub-cap for foreign species listing provides the Service with a defensible means to allocate efforts among various mandatory duties under the ESA. The foreign species budget sub-cap allows the Service to balance the protection of both foreign and domestic species in a way that will not detract from efforts to protect imperiled domestic species. Currently, six staff support the foreign species ESA listing program, including responding to petitions to list species under the ESA. Seventy-two (72) staff support the Service’s International Affairs program, supporting international conservation and international wildlife trade activities.*

The conservation benefit of listing domestic species is generally much higher than that of listing foreign species, because domestic species’ management tools include several ESA and other conservation tools, including: recovery planning and implementation under section 4, cooperation with States under section 6, coordination with other federal agencies under section 7, full take prohibitions of section 9, management agreements and permits under section 10, and other laws/treaties such as MMPA or MBTA. Foreign species’ management tools are very limited. The chief tools are trade restrictions through section 10 and/or CITES trade prohibitions, education and public awareness, and grant monies.

CITES is an international treaty to which the United States is a Party. American citizens are subject to its provisions, and the Service has been delegated responsibility for implementing this treaty obligation. Our participation in meetings of the CITES Parties ensures that U.S. interests are represented, not only to advocate for the protection of species subject to international trade, but to be part of negotiations that determine the nature and extent of restrictions that impact U.S. citizens and businesses. The cost of the Service's participation in the Bangkok meeting was in fact about \$90,000, including direct travel costs for employees, rental of temporary office space and equipment on-site, and support for participation by a representative of the State fish and wildlife agencies on the delegation.

(136). Over a year ago, in March 2012, a request was made for information about any work performed by the firm Mad River Biologists under contract or grant issued by the Fish and Wildlife Service. The Service's June 2012 response stated, "The Pacific Southwest Regional Office, in consultation with the Service's Science Integrity Officer, has developed a quality assurance plan that is being utilized to review Mad River Biologists report and contracts from the past 3 years to ensure that the science is sound and contract deliverables have been received. We expect this evaluation to be completed by the end of June 2012." Please provide a copy of the quality assurance plan concerning the review of Mad River Biologists work and an update of the Service's review of its work, including descriptions of any studies whose science was not sound. Also, please describe whether Mad River Biologists has been debarred from receiving contracts or grants from the federal government.

Response: *The evaluation was completed by June 26, 2012, and none of the work reviewed was found to be scientifically unsound, so no descriptions of such studies (as requested in this question) are provided.*

In a letter dated July 13, 2012, the Department of the Interior's Office of Acquisition and Property Management issued Notices of Suspension to Mad River Biologists, Inc., Mad River Biologists Research, Inc., and Mssrs. LeValley and McAllister. The Notices suspend recipients of the Notices from receiving awards under certain discretionary Federal assistance, loans, and benefits. The recipients were also suspended from participating in Federal procurement awards. The action was described as effective throughout the Federal government, and for a temporary period pending completion of investigation or legal proceedings unless sooner terminated under 2 C.F.R. Part 180. Recipient names were placed on the Excluded Parties List System on the General Services Administration website that contains the names of persons suspended, proposed for debarment under the Federal Acquisition Regulation, debarred, or otherwise declared ineligible by any agency in the Federal Government.

(137). In a letter to several Members dated February 27, 2013, you stated that the Service "committed through a settlement agreement to complete a final listing determination for the lesser prairie chicken by September 30, 2013 unless we find substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination requires additional time." The Service published the proposed listing rule on December 11, 2012. As you know, I and many other Members have requested an extension to ensure that

states and private landowners are provided additional time to review a conservation plan that was submitted by states recently to the Service. Please explain why the Service seeks to finalize a final rule less than 9 months from the date of a proposed listing, rather than the typical 12 months provided in 16 U.S.C. §1533(b)(6)(B)(i).

Response: *The Service is required to complete the final rule for the lesser prairie chicken under the deadlines set forth in the settlement agreement. Pursuant to a settlement agreement with WildEarth Guardians, a final listing determination is to be submitted to the Federal Register on or before September 30, 2013, unless the Secretary finds that substantial disagreement exists regarding the sufficiency or accuracy of the available data relevant to the listing determination, in which case the final listing determination is to be submitted to the Federal Register on or before March 31, 2014.*

(138). As you may know, on March 15, 2013, the Thurston County Chamber of Commerce, the Port of Olympia and the City of Tumwater, Washington sent a letter to you with regard to the Service's December 11, 2012 proposed listing of four subspecies of Mazama Pocket Gophers and the designation of critical habitat. The letter outlines several legitimate concerns by the Thurston County Chamber, the State of Washington and others: (1) that the Service's proposed listing and critical habitat designation is based on outdated data and science, (2) that the Service closed public comment and short-changed the statutory deadline for listing before key ongoing research and economic analyses have been made available for public comment; (3) that the Service's proposed listing failed to consider two other studies being conducted by the State of Washington; and (4) the State of Washington has existing conservation protections for gophers that renders the listing unnecessary. Have you responded to the March 15, 2013 letter? Please provide answers to each of these questions.

Response: *The concerns raised in the letter referenced here were based on earlier correspondence from the Washington Department of Fish and Wildlife (WDFW) and State of Washington in the fall of 2012. Since the fall of 2012, the Service and WDFW have collaborated on studies to address those concerns. On April 19, 2013, the Washington Department of Fish and Wildlife submitted a comment letter during the second public comment period which closed on May 3, 2013. This letter (attached) documents ongoing scientific collaboration between the agencies which demonstrates the close alignment of WDFW's scientific perspectives and the Service's proposed listing, and it expresses appreciation for the Service's responsiveness to these concerns through productive conversations between the two agencies. (See Appendix 8)*

This letter has been shared with the Thurston County Chamber of Commerce, the Port of Olympia and the City of Tumwater and other stakeholders. Thurston County, the City of Tumwater, the Port of Olympia and other local governments are now partnering with the Service on conservation planning to prepare for a potential federal listing. The public comment period following the publication of the proposed rule was 60 days. The Service reopened the comment period to allow the public to comment on the draft economic analysis and comment on the proposed listing rules for an additional 30 days. We are currently reviewing all public comments received during the two public comment periods (90 days total).

The Service continues to reach out to these parties to collaborate and share information with them.

(139). In re Polar Bear Endangered Species Act Listing and Section 4(d) Litigation, 794 F.Supp.2d 65, 82-83 (D.D.C. 2011), the Service used a standard of what constitutes “endangered” as “on the brink of extinction in the wild.” Is it reasonable to expect that for the multitude of listing decisions the Service must address as part of the settlements and other petitions, the Service’s starting point, for making its listing determination, will be that to be considered an endangered species, the species must currently be on the brink of extinction in the wild, taking into consideration the life history and ecology of the species, the nature of threats it faces and the species’ response to those threats?

Response: *In response to the Court’s November 4, 2010 Memorandum Opinion and Order regarding the Service’s Final Listing Determination under the ESA for the Polar Bear, the Service submitted a supplemental explanation of the meaning of the statutory phrase “in danger of extinction” as applied in the Polar Bear Listing Rule. As a supplemental explanation for the Court to consider along with the administrative record in evaluating the Listing Rule, we stated that the explanation does not set forth a new statement of agency policy, nor is it a “rule” as defined in the Administrative Procedure Act. Indeed, given the narrow scope of the remand, the Court determined that notice-and-comment procedures were not required. As the Court explained in ordering this remand, it was not “requir[ing] the agency to adopt independent, broad-based criteria for defining the statutory term ‘in danger of extinction.’” Mem. Op. at 24 n.18.*

We believe the Service’s general understanding of the meaning of “in danger of extinction” as applied in the Polar Bear Listing Rule fully conforms with past agency practice and is consistent with the text, structure, policy objectives, and legislative history of the ESA, as well as judicial interpretations of the statute. However, as we stated in our explanation for the court, due to the complexity of biological systems and processes, the diversity of the life histories of individual species, and differences in the amount and quality of data to inform individual listing determinations, those determinations are contextual and fact-dependent; as a result, the Service has not promulgated a binding interpretation of “in danger of extinction” or even explicit non-binding guidance on the meaning of the phrase that may be applied uniformly in those determinations. Thus, the explanation set forth in our memorandum does not represent a new interpretation of the statute and is not a prospective statement of agency policy.

(140). Does the Service intend to use “on the brink of extinction in the wild” as its standard for the species involved in the “multi-species listing settlements” dated July 12, 2011 and May 10, 2011? Please explain in detail why or why not.

Response: *As stated above, as a supplemental explanation for the Court to consider along with the administrative record in evaluating the Listing Rule, the explanation does not set forth a new statement of agency policy, nor is it a “rule” as defined in the Administrative Procedure Act. The Court explained in ordering this remand, it was not “requir[ing] the agency to adopt independent, broad-based criteria for defining the statutory term ‘in danger of extinction.’” Mem. Op. at 24*

n.18. Thus, the explanation set forth in our memorandum does not represent a new interpretation of the statute and is not a prospective statement of agency policy.

Further, due to the complexity of biological systems and processes, the diversity of the life histories of individual species, and differences in the amount and quality of data to inform individual listing determinations, those determinations are contextual and fact-dependent. As a result, the Service has not promulgated a binding interpretation of “in danger of extinction” or even explicit non-binding guidance on the meaning of the phrase that may be applied uniformly in those determinations.

(141). If “on the brink of extinction in the wild” isn’t a starting point, wouldn’t it be arbitrary and capricious to treat species differently, or to make the determination with a lower threshold than the FWS used with the polar bear?

Response: *The legislative history indicates Congress did not provide any quantitative measures for the Service to apply when determining whether a species is “in danger of extinction.” Rather, it left to the discretion of the Service the task of giving meaning to these terms through the process of case-specific analyses, which must necessarily depend upon the Service’s scientific expertise. While we believe the Service’s general understanding of the meaning of “in danger of extinction” as applied in the Polar Bear Listing Rule fully conforms with past agency practice and is consistent with the text, structure, policy objectives, and legislative history of the ESA, as well as judicial interpretations of the statute, as mentioned above, due to the complexity of biological systems and processes, the diversity of the life histories of individual species, and differences in the amount and quality of data to inform individual listing determinations, those determinations are contextual and fact-dependent.*

(142). On March 12, 2013, the Okanogan County, Washington Board of Commissioners sent a letter to you regarding the Service’s February 1, 2013 proposed listing of the wolverine in the lower 48 states, on the alleged basis of climate change. When the petition to list the wolverine first occurred in 2008, the Service concluded that the data supporting the petition was “insufficient to determine wolverine distribution and habitat requirements” and that “it also is impossible to know if the continued existence of the wolverine could be threatened.” Please provide a copy of the listing petition and any supporting data that resulted in the Service’s reversal in a decision that a listing was warranted.

Response: *A copy of July 11, 2000, petition from the Biodiversity Legal Foundation to list the wolverine as a threatened or endangered species in the contiguous United States is attached (Appendix 9a). Further, copies of the December 14, 2010, 12-month finding on the petition (Appendix 9b) and the February 4, 2013, proposed rule to list the wolverine (Appendix 9c) are also attached. These latter documents provide our rationale for why the Service has determined that the wolverine meets the definition of a threatened species and warrants listing under the ESA, found in the attached proposed rule.*

(143). On August 20, 2012, the Service proposed to designate 838,232 acres of critical habitat in Arizona and New Mexico for the jaguar, which was listed as endangered. The Arizona Game and Fish, the Pima Natural Resource Conservation District, the Triangle Natural Resource Conservation District, the Chino-Winds Natural Resource Conservation District and many others have raised strong concerns regarding the Service’s lack of data or science relating to this proposed action, or that there has ever been any evidence of jaguars in those areas at all. Specifically, the Arizona agency cites these specific scientific flaws: 1) use of inaccurate and unreliable records; 2) reliance on an unfounded assumption that all recorded natural history of jaguars in Arizona and New Mexico began in the year 1900; 3) reliance on and propagation of the false assumption that all sightings of jaguars in Arizona and New Mexico are of “naturally occurring” animals when many were actually of foreign origin and imported and released by humans for hunting purposes; 4) failure to examine primary records and adequately verify cited data and literature for accuracy (an universal error); 5) failure to present the specific dataset used in the model; 6) failure to cite data sources or other sources for specific records; 7) speculation that the location where a jaguar was killed, or in some cases where it was first sighted in the United States, somehow represents its preferred natural habitat; 8) failure to acknowledge the existence of data rejected or omitted, and failure to explain why certain data was rejected or omitted when the reason is neither obvious nor apparent to the reader; 9) failure to identify a specific jaguar in an occurrence record; 10) failure to properly verify the data to prevent according duplicative records to the same jaguar. Please provide all data supporting the Service’s proposed critical habitat designation and the Service’s response to these serious scientific flaws.

Response: *A copy of the August 20, 2012, proposed rule to designate critical habitat is attached (Appendix 10). The document provides a thorough explanation of the underlying scientific information that was used in the development of the proposed critical habitat designation. Following publication of the proposal, a 60-day public comment period was opened to allow the public the opportunity to review and provide comment on the proposed critical habitat. Information provided by the public during that comment period will be considered and addressed in developing the final rule. A final decision on the designation of critical habitat is to be made by August 6, 2013.*

(144). I am greatly concerned with the Service’s current arbitrary “distinct population segment” boundaries for the gray wolf, which is currently listed as threatened under the Endangered Species Act over two-thirds of the state of Washington up to highway 17, 97 and 395, while it is not listed in the eastern-most one-third of the state on the other side of those highways. Please provide any and all documents relating to the Service’s determination of the boundaries of the Northern Rockies Distinct Population Segment boundary, particularly as it pertains to the state of Washington. With regard to federal enforcement of the ESA as it pertains to the gray wolf, what resources has the Service committed in Washington, Oregon and Utah to enforce the portions of those states that remain federally listed for wolves?

Response: Please see attached documents (Appendices 11a – 11c).

2011

Washington: \$5,000
Oregon: \$5,000
Utah: \$0

2012

Washington: \$100,000
Oregon: \$100,000
Utah: \$0

2013:

Washington: \$96,500
Oregon: \$46,500
Utah: \$0

Utah has not received Service money because there are no wolves there.

(145). On December 19, 2011, the Pacific Legal Foundation, the California Farm Bureau Federation, the Oregon Cattlemen and the California Cattlemen submitted a petition to the Service to de-list the following species: the Inyo California towhee, and downlist the following species: the Arroyo toad, the Indian Knob Mountain balm; the Lane Mountain milk vetch; the Modoc Sucker and the Santa Cruz Cypress. Can you please explain the Service’s delay in acting on this petition? How many species has the FWS de-listed, either on its own initiative or in response to lawsuit, in the past 10 years? Please provide the Committee with a summary of this information.

Response: *On June 4, 2012, the Service issued a 90-day finding that concluded the petition provided substantial scientific and commercial information that the petitioned actions may be warranted, and initiated status reviews for these six species. On April 24, 2013, California Cattlemen’s Association et al. filed a complaint in the Eastern District of California challenging the Service’s failure to issue timely 12-month findings for the species listed in the petition. To date, the Service has not issued 12-month findings or proposed rules to reclassify these species because of other high-priority work. However, we have made considerable progress on each of the species reviews and anticipate delivering findings for the species to the Federal Register beginning this fiscal year.*

The Service has delisted the following 24 species in the past 10 years:

Date Delisted	Species Name
3/4/2013	Squirrel, Virginia northern flying Entire (Glaucomys sabrinus fuscus)
9/30/2012	Wolf, gray WY, EXPN population (Canis lupus)
5/23/2012	Crocodile, Morelet's (Crocodylus moreletii)
1/27/2012	Wolf, gray MN (Canis lupus)
11/28/2011	Snake, Concho water (Nerodia paucimaculata)

9/15/2011	Snake, Lake Erie water subspecies range clarified (Nerodia sipedon insularum)
9/2/2011	Coneflower, Tennessee purple (Echinacea tennesseensis)
5/5/2011	Wolf, gray Northern Rocky Mountain DPS (delisted, except WY) (Canis lupus)
2/18/2011	Daisy, Maguire (Erigeron maguirei)
9/24/2010	Snail, Utah valvata (Valvata utahensis)
12/17/2009	Pelican, brown except U.S. Atlantic coast, FL, AL (Pelecanus occidentalis)
4/2/2009	Wolf, gray Western Great Lakes DPS (Canis lupus)
10/28/2008	Seal, Caribbean monk (Monachus tropicalis)
9/5/2007	Springsnail, Idaho (Pyrgulopsis idahoensis)
8/8/2007	Eagle, bald lower 48 States (Haliaeetus leucocephalus)
6/19/2006	Agave, Arizona (Agave arizonica)
4/14/2006	Pygmy-owl, cactus ferruginous AZ pop. (Glaucidium brasilianum cactorum)
8/18/2005	Sunflower, Eggert's (Helianthus eggertii)
9/21/2004	Monarch, Tinian (old world flycatcher) (Monarcha takatsukasae)
2/23/2004	Broadbill, Guam (Myiagra freycineti)
2/23/2004	Mallard, Mariana (Anas oustaleti)
10/7/2003	Woolly-star, Hoover's (Eriastrum hooveri)
10/1/2003	Barberry, Truckee (Berberis (=Mahonia) sonnei)
7/24/2003	Deer, Columbian white-tailed Douglas County DPS (Odocoileus virginianus leucurus)

(146). What is the total FY 2014 FWS budget and number of FTEs associated with implementation of the July 12, 2011 and May 10, 2011 multi-species settlements with Center for Biological Diversity and the WildEarth Guardians?

Response: *The Services requests \$15,012,000 in FY 2014 for listing species, which would include complying with these settlement agreements, other court orders as well as statutory requirements. An estimated 86 FTEs will support the Listing program in FY 2014.*

(147). On April 2, 2013, a media article described concerns that rat poison used on illegal marijuana farms may be adversely affecting West Coast fishers, which the Service listed as endangered. Please describe all programs and the number of FTEs the Service has employed to address this issue and whether this will be included in the Service's recently announced status review for listed fishers. I understand that the Service is considering a reintroduction project of fishers on the Olympic Peninsula. Please describe all efforts relating to reintroduction of the fishers in Washington and all data the Service has relating to the population of fishers in Washington.

Response: *Federally, the West Coast population of fishers was found to be a Candidate under the Endangered Species Act in 2004. The State of Washington lists fisher as State Endangered. Under the MDL workplan, the Service is conducting a status review of the West Coast populations of fishers and will submit a finding to the Federal Register by the end of FY 2014.*

The Service provided more than \$84,000 in research funding that led to the discovery rat poison issue. An additional \$25,000 was awarded in FY 2012 to continue investigations into this topic. This issue will be evaluated in the West Coast fisher status review using the best available science. The Service continues to work closely with the principle investigators who identified this issue, with toxicologists at the California Department of Fish and Wildlife, and other professionals associated with this topic. The Service has utilized existing staff at approximately 0.10 FTE coordinating with the researchers and has contaminants staff working at 0.05 FTE on the issue as well.

The Washington Department of Fish and Wildlife (WDFW), Olympic National Park, U.S. Geological Survey, Conservation Northwest and many other partners initiated the Olympic fisher reintroduction project in December of 2007. With the assistance of the British Columbia Ministry of Environment and the BC Trappers Association, a total of 90 fishers (50 females and 40 males) were captured in central British Columbia and translocated to Olympic National Park from January 2008 to February of 2010. Initial findings indicate that survival was highly variable among release years and that wilderness constraints prevented the reliable determination of breeding success for most of the released females. Current status of reintroduced fishers in the Olympic Recovery Area is unknown, but recent detections via remote cameras and occasional roadkill suggests that some animals are persisting.

The WDFW is partnering with others to develop plans for the translocation of 80 fishers from central British Columbia to the Washington Cascades beginning in 2014. The translocation implementation plan and associated NEPA analysis was initiated in March 2013 by the National Park Service and WDFW to assess the environmental impacts of the proposed fisher translocation to North Cascades and Mt. Rainier National Parks. Project partners have submitted proposals for funding to support the translocation project in both the north and south Cascades recovery areas.

(148). A recent study showed that an estimated 25 million of the 120 million juvenile salmon smolts that travel up the Columbia River each year are consumed by cormorants, which are protected under the Migratory Bird Treaty Act. I understand that the Army Corps of Engineers is developing a report recommending actions relating to the lethal control of these predatory birds. Can you please outline the activities and FY 2014 of FWS' migratory bird control program for Region 1 that includes Washington, Oregon and Idaho?

Response: *The U.S. Army Corps of Engineers is completing an Environmental Impact Statement of the effects of cormorants nesting on spoil islands at the mouth of the Columbia River. The Service has no "program" for control of double-crested cormorants. However, the Service can issue permits to the Corps of Engineers and other agencies to control the cormorants.*

Ranking Member Ed Markey

(149). What effect is the sequester having on your ability to meet core agency missions now, and what effect will it have if it spills over into the next fiscal year?