

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the West Baraboo Village Hall, 500 Cedar Street, Baraboo, Wisconsin.

Send comments to Mr. Scott Alexander, West Baraboo Village President, 500 Cedar Street, P.O. Box 261, Baraboo, Wisconsin 53913.

Wisconsin	Wisconsin Dells (City), Sauk and Columbia Counties.	Wisconsin River	At downstream corporate limits	*826	*824
			At downstream side of Kilbourn Dam	*830	*827

Maps available for inspection at the Wisconsin Dells City Hall, 300 La Crosse Street, Wisconsin Dells, Wisconsin.

Send comments to The Honorable Craig Case, Mayor of the City of Wisconsin Dells, 300 La Crosse Street, Wisconsin Dells, Wisconsin 53965.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 10, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Cactus Ferruginous Pygmy-owl Take Guidance and Survey Protocol; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of two public comment periods.

SUMMARY: The U.S. Fish and Wildlife Service (Service) provides notice that it is extending the public comment periods to allow continued public input on the take guidance and survey protocols for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*). The take guidance is for use in determining if take of the cactus ferruginous pygmy-owl may result from activities within areas occupied by the species in Arizona. Two survey protocols are proposed—one for determining presence of the species within known historic range in Arizona, and another for gathering information on the species' distribution, occurrence, and numbers. Notices of availability and comment periods were previously published on September 16, 1998 (63 FR 49539) and August 13, 1998 (63 FR 43362 and 43363). This species is listed as endangered in Arizona under the U.S. Endangered Species Act.

DATES: Written comments should be received by March 14, 1999.

ADDRESSES: Persons wishing to review either the cactus ferruginous pygmy-owl take guidance or survey protocol may access either at the world wide web site of the Southwest Region of the Service at <http://ifw2es.fws.gov/arizona/>, or obtain copies by contacting the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021-4951 or by calling the Field Office at (602) 640-2720. Documents will also be available for public inspection by written request, by appointment only, during normal business hours (7:30 to 4:30), U.S. Fish and Wildlife Service, Phoenix, Arizona. Written data or comments concerning the cactus ferruginous pygmy-owl take guidance or survey protocol should be submitted to the Field Supervisor, Arizona Ecological Services Field Office, Phoenix, Arizona (see address above).

FOR FURTHER INFORMATION CONTACT: Tom Gatz, Acting Field Supervisor, Arizona Ecological Services Field Office in Phoenix, Arizona at (602) 640-2720.

SUPPLEMENTARY INFORMATION:

Background

The cactus ferruginous pygmy-owl was listed by the Service as an endangered species in Arizona on March 10, 1997, based on extensive population declines within its historic range in the state. The pygmy-owl, a small reddish-brown owl, nests in a cavity in a tree or large columnar cactus. The species was once common to abundant in riparian forests, mesquite-cottonwood woodlands, and desertscrub habitats in central and southern portions of the state. It is still considered a potential inhabitant of riparian areas, where this extremely limited vegetative community still occurs, and is found in upper Sonoran

Desert habitats usually consisting of dense ironwood, mesquite, acacia, bursage, and saguaro cacti, with understory vegetation of smaller trees and shrubs.

On August 13, 1998, the Service published two notices of availability and opening of public comment periods for cactus ferruginous pygmy-owl survey protocol (63 FR 43362) and taking guidance (63 FR 43363). The comment periods closed on September 14, 1998. The comment periods were extended until November 14, 1998, with a September 16, 1998, notice (63 FR 49539).

Take Guidance

Urban and suburban development within the remaining appropriate habitat of the pygmy-owl is ongoing. These and other actions may result in take of the species. The Endangered Species Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions that apply to all endangered and threatened wildlife, respectively. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect or to attempt any of these). Regulations at 50 CFR 17.3 define the terms "harm" and "harass" as used under the definition of "take." "Harm" is defined as an act which actually kills or injures wildlife. Such acts may include significant habitat modification that impairs essential behavioral patterns, including breeding, feeding, or sheltering. "Harass" is defined as an intentional or negligent act or omission which creates a likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns, including, but not limited to, breeding, feeding, or sheltering.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

At the time of listing the owl, the Service provided a partial listing of activities that could potentially harm, harass, or otherwise take the pygmy-owl. These included—

- (1) Removal of nest trees;
- (2) Removal of a nest box in use by the pygmy-owl;
- (3) Clearing or significant modification of occupied habitat, whether or not the nest tree is included;
- (4) Sustained noise disturbance during the breeding season;
- (5) Pursuit or harassment of individual birds;
- (6) Frequent or lengthy low-level flights over occupied habitat during the breeding season;
- (7) Severe overgrazing that results in the removal of understory vegetation.

In furtherance of the Service's policy to provide information concerning what activities may be considered take of the pygmy-owl, the Service is making available information to aid both Federal and non-Federal entities in determining when a take situation may occur.

Survey Protocol

The Fish and Wildlife Service (Service) proposes a survey protocol for determining the presence of the

endangered cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) within known historic range of the species in Arizona. The proposed survey protocol comes in two versions depending on its use: the first is for use in determining if cactus ferruginous pygmy-owls are present on specific project sites where an activity is proposed; the second is for use in gathering information on distribution, occurrence, and numbers of pygmy-owls over more extensive areas of its historic range in Arizona. This proposed protocol is founded on procedures established by the Arizona Game and Fish Department in 1993. The proposed protocol incorporates modifications found to be appropriate following 5 years of field application. Differences between the 1993 protocol and the current proposed protocol include a reduction in the survey period from 9 months (September through May) to 6 months (January through June); and an increase in surveys from one to three, with 30 days between each of the three surveys preferred, but a minimum of 15 days required. At least one survey must occur between February 15 and April 15. In reviewing determinations of pygmy owl presence or absence, the Service will require the implementation of the protocol for two consecutive years (rather than one year) prior to actions that may impact the owls or their habitats.

The existing protocol will remain in use and in effect until the public comment period is closed and the Service has evaluated the comments from the public.

The Service has submitted the protocol to recognized species and technical experts for peer review to ensure a scientifically sound basis for determination of the presence of the species within its known range.

The Service will regularly review and modify, as necessary, the survey protocol to ensure that the best available scientific information is incorporated into the prescribed methodology.

Overall Purpose

The Service extends the public comment period to ensure that adequate time is available for the public to provide additional information to more adequately understand the occurrence and biology of the cactus ferruginous pygmy-owl in central and southern Arizona. Until more complete scientific information is available, the Service believes that the use of the take guidance document and the proposed survey protocol document will protect the pygmy-owl while allowing carefully considered development to proceed and will provide the most biologically valid data upon which to determine habitat use and occupancy by the pygmy-owl.

Author: The primary author of this document is Leslie Dierauf, Conservation Biologist, Regional Office.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: November 9, 1998.

Geoffery L. Haskett,

Regional Director, Region 2, Albuquerque, New Mexico.

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