

brasiliannum cactorum), Sonoran pronghorn (*Antilocapra americana sonoriensis*), and Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*) within Arizona; Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona and California; lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*) within Arizona and New Mexico; Mexican long-nosed bat (*Leptonycteris nivalis*) within New Mexico and Texas; and southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, California, New Mexico, Texas, and Utah.

Permit No. TE-066229

Applicant: Whitenton Group, San Marcos, Texas.

Applicant request a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within Texas: Golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapillus*), piping plover (*Charadrius melanotos*), red-cockaded woodpecker (*Picoides borealis*), northern aplomado falcon (*Falco femoralis septentrionalis*), fountain darter (*Etheostoma fonticola*), San Marcos gambusia (*Gambusia georgei*), ocelot (*Leopardus pardalis*), jaguarundi (*Herpailurus yagouaroundi cacomitli*), Barton Springs salamander (*Eurycea sosorum*), bonytail chub (*Gila elegans*), Texas blind salamander (*Typhlomolge rathbuni*), and Houston toad (*Bufo houstonensis*).

Permit No. TE-037155

Applicant: BIO-WEST, Logan, Utah.

Applicant requests an amendment to an existing permit to allow surveys for and collection of Colorado pikeminnow (*Ptychocheilus lucius*) and razorback sucker (*Xyrauchen texanus*) within New Mexico, Colorado, and Utah.

Susan MacMullin,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Notice of 12-month Finding on a Petition to List Mount Ashland Lupine (*Lupinus lepidus* var. *ashlandensis*) and Henderson's Horkelia (*Horkelia hendersonii*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list *Lupinus lepidus* var. *ashlandensis* (Mount Ashland lupine), and *Horkelia hendersonii* (Henderson's horkelia), in accordance with the Endangered Species Act of 1973, as amended. After reviewing the best available scientific and commercial information available, we find that the petitioned action is not warranted. We ask the public to submit to us any new information that becomes available concerning the status of or threats to these species. This information will help us monitor and encourage the conservation of these species.

DATES: The finding announced in this document was made on January 26, 2003. Comments and information may be submitted to us until further notice. You may submit new information concerning these species for our consideration at any time.

ADDRESSES: You may send data, information, or questions concerning the finding to the Field Supervisor, Oregon Fish and Wildlife Office, 2600 SE. 98th Avenue, Suite 100, Portland, Oregon 97266. You may inspect the petition, administrative finding, supporting information, and comments received, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT:

Kathy L. Pendergrass, at the above address (telephone 503/231-6179; facsimile 503/231-6195).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the List of Threatened and Endangered Species containing substantial scientific or commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition on whether the petition action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the *Federal Register*.

We received two separate petitions, both dated September 9, 1999, from the Rogue Group Sierra Club to list *Lupinus aridus* spp. *ashlandensis* (Mount Ashland lupine) and *Horkelia hendersonii* (Henderson's horkelia) as endangered or threatened throughout

their range, and to designate critical habitat. On June 13, 2000, we published a 90-day finding for these two species in the *Federal Register* (65 FR 37108). We found that the petitions presented substantial information indicating that listing may be warranted. At that time, we initiated a review of the species' status within their historical range. This 12-month finding has been made in accordance with the judicially approved settlement agreement requiring us to submit a final listing decision on these species to the *Federal Register* by February 1, 2003 (*Sierra Club v. Norton et al.* (Civ. No. 01-1804-BR)).

Lupinus lepidus var. *ashlandensis* is an erect, perennial herb within the Fabaceae family. It forms clumps 15 to 20 centimeters (cm) (5.9 to 7.9 inches (in)) in diameter. Plants are 7 to 12 cm (2.8 to 4.7 in) tall with leaves palmately compound with 5 to 7 leaflets that are up to 3 cm (1.2 in) long. Leaves are numerous and crowded from the basal crown, with pubescent (hairy) undersurfaces and glabrous (hairless) upper sides. Flowers are blue with petals about 11 millimeters (mm) (0.43 in) long. The banner (upper petal) is glabrous and the keel (lower petal) ciliate (with sparse hairs) on the margin (Meinke 1982).

Lupinus lepidus var. *ashlandensis* occurs as a single population of approximately 35,000 plants on the summit and western ridge of Mount Ashland within Oregon. The entire population is located in an area of about 30 hectares (ha) (74 acres (ac)), with two thirds of the known population on the ridge-line within 0.4 kilometers (0.25 miles) of the summit of Mount Ashland (Rolle 1993). The plants occur in four discontinuous patches within this 30 ha (74 ac) area. Much of the habitat that *Lupinus lepidus* var. *ashlandensis* occurs in are brush fields or clumps of brush, and is not suitable habitat. It is estimated that less than 60 percent or approximately 17 ha (42 ac) is actually occupied by *Lupinus lepidus* var. *ashlandensis*.

Horkelia hendersonii, a member of the rose family (Family Rosaceae), is a perennial herb with several stems arising from a branching, woody crown, approximately 1 to 1.5 decimeters (3.9 to 5.9 in) high (Abrams 1941; Keck 1938). Leaves are silky and 4 to 6 cm (1.6 to 3.3 in) long with 11 to 19 leaflets arranged pinnately (Meinke 1982). Flowers are white to pink with petals 4 mm (0.16 in) long in a somewhat clustered terminal (grouped at the tip of the stems) inflorescence (Peck 1961). This plant is one of approximately eight Oregon species of the genus *Horkelia*. *Horkelia hendersonii* is distinguished

from similar species by entire or simple cleft leaf stipules (leaflet structure at the base of the leaf stem) and densely long-silky hairs on the leaves and stems. It is the only alpine *Horkelia* in Oregon having dense silky, non-glandular (non-sticky) hairs.

Horkelia hendersonii is estimated to be approximately 32,307 individuals, occupying a total of 86.6 ha (214 ac), with four main population centers in Oregon and one small population in California. The two species co-occur on the top of Mount Ashland.

According to the petitions, the Mount Ashland populations of both species are threatened by the existing use and potential expansion of ski area facilities, roads, mountaintop facilities, and summer recreation. Additional threats identified in the *Horkelia hendersonii* petition included grazing, mining, firebreak construction, off-road vehicles, and logging.

Current recreational ski activities occur over about 3.4 ha (8.5 ac) or approximately 12 percent of the area where these species occur at Mount Ashland. These operations have occurred over this occupied habitat for about four decades with no observable changes in population distribution or numbers. A ski expansion proposed at Mount Ashland is expected to increase the number of skiers in occupied habitat. On the basis of information provided in the U.S. Forest Service's (Forest Service) (2000) draft environmental impact statement (DEIS), we believe that additional skier use as a result of the expansion of the ski area on Mount Ashland would not significantly destroy, modify, or curtail either species' habitat or range. We base this on the fact that the plants are dormant and insulated by a layer of snow during the winter period of use. Also, mitigation measures contained in a recently signed conservation agreement (CA) are expected to ameliorate impacts from the ski expansion.

The petitioners expressed concern that activities associated with the proposed ski expansion may increase the pressure of the snowpack on dormant *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* root crowns, change the longevity of the snow pack, or otherwise affect the environment and habitat that currently support these two species in this area of impact. There have been no studies to date that we are aware of to determine if skiing activities affect *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* or their habitat underneath the snowpack. Also, the petitioners did not present any information on

scientific studies that detailed effects to alpine vegetation by ski activities. Thus, these impacts are unknown. If changes in environmental conditions occurred in the past as a result of these activities, it is unknown whether the effects were detrimental, beneficial, or neutral to *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* individuals (Forest Service 2000).

Although initial road developments constructed years ago resulted in some habitat and individual plant loss, no current proposals call for expansion of existing roads or new road construction. Cutbanks and new drainage patterns created by the summit road on Mount Ashland have started gullies, which may reduce soil moisture retention, thereby reducing habitat for both species (Kagan and Zika 1987a, b; Zika 1987). During October 2002, the Forest Service started actions to improve drainage patterns of the existing road on Mount Ashland to ameliorate these potential gully impacts (W. Rolle, Forest Service, *in litt.*, 2002). The threat of gully formation associated with roads is much less at the Dutchman Peak/Jackson Gap, and is unknown for the Dry Lake Lookout site. Forest Service personnel are to evaluate sites that contain or are adjacent to roads for this potential impact on an annual basis, with the intent to implement actions to reduce road impacts (Service and Forest Service 2002). Since no new road construction or widening are presently planned in areas where *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* occur, and because the Forest Service is currently working to ameliorate habitat threats as a result of the current road at Mount Ashland, we do not consider road construction and maintenance to be a significant current threat to these species.

An existing off-road vehicle track leading west from the Mount Ashland summit access road at the first switchback has been reported to be a potential avenue for the introduction of roadside weeds into the meadow and flat area that supports a sizeable population of *Horkelia hendersonii* and a small population of *Lupinus lepidus* var. *ashlandensis* (Kagan and Zika 1987a; Zika 1987). However, this potential impact is not yet evident. Though a few non-natives are present, they are either not expanding or are fairly ephemeral (transient) components of the plant communities. Unlike many other plant communities, non-native species are generally not increasing in areas inhabited by *Lupinus lepidus* var. *ashlandensis* or *Horkelia hendersonii*. The lack of establishment by these non-natives is likely due to the harsh alpine

conditions of these sites, and that non-native plants adapted for these conditions have not been introduced.

Although mountaintop developments constructed years ago resulted in some habitat and individual plant loss, there have been few other such developments since. Only one new mountaintop development is currently proposed, to replace an outdated underground power cable that supplies electricity to weather and telecommunications facilities at the summit of Mount Ashland (Forest Service 2002). The Forest Service proposes that, in order to reduce impacts to the populations, the cable installation should occur within the existing compacted roadbed, instead of where it presently occurs. With this alternative, the project would intersect only a small portion of habitat and result in the loss of just a few plants of both *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii*. No additional mountaintop developments are planned in the foreseeable future. Threats associated with the maintenance of these facilities are generally low in magnitude and are not thought to comprise a threat to either species or their habitat.

Relatively small areas (3 to 4 percent) of the total population areas are currently being impacted as a result of trampling and soil compaction from summer recreational activities. Actions currently being implemented by the Forest Service to reduce these impacts include the placement of barriers to delineate parking areas, enforcement of off-road vehicle restrictions, signing and environmental education, camping closures, and limitations on special use permits (limits on size and number of gatherings) (Service and Forest Service 2002). These efforts are expected to contain summer recreational impacts to these small areas occupied by *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* (W. Rolle, *in litt.*, 2002). Since summer recreation threats are currently very limited in extent and overall magnitude, and the Forest Service is actively managing to reduce these threats, summer recreation is not currently thought to be a significant threat to the species or their habitat.

Cattle grazing is not permitted in the Ashland Watershed or on any part of Mount Ashland; thus, no legal grazing is affecting *Lupinus lepidus* var. *ashlandensis* or the Mount Ashland population of *Horkelia hendersonii*. There are no proposals to permit grazing in this area in the future. Although cattle occasionally wander into these species' population areas, their presence is transitory and does not appear to affect *Lupinus lepidus* var. *ashlandensis*

or *Horkelia hendersonii* individuals or alter habitat. A few *Horkelia hendersonii* plants have been observed with herbivore damage (Kagan and Zika 1987b), but there is no direct evidence that either species is utilized as a forage plant for cattle or wildlife, nor does either species grow with livestock-preferred forage plants. All of the *Horkelia hendersonii* occurrences outside of the Mount Ashland area are in active range allotments. The dry *Horkelia hendersonii* habitat does not produce much forage and is not near water. Hence, livestock use is currently light on most of these areas and does not appear to affect *Horkelia hendersonii* plants.

There are no proposals to conduct mining in any of the areas where either species occurs, and the potential of firebreak construction is considered to be low. Logging is not thought to threaten either species as both are alpine plants found in non-forested habitats.

Neither *Lupinus lepidus* var. *ashlandensis* or *Horkelia hendersonii* has any known commercial, sporting, or scientific uses at this time. There are no identified pests or pathogens that appear to be serious threats to either species. No other natural or manmade mechanisms are known to effect either *Lupinus lepidus* var. *ashlandensis* or *Horkelia hendersonii* or their habitat.

Lupinus lepidus var. *ashlandensis* is a candidate for listing as an endangered species under the Oregon Endangered Species Act (OESA), while *Horkelia hendersonii* has no State status in either Oregon or California. Neither species receives protection under the OESA.

Lupinus lepidus var. *ashlandensis* is considered a sensitive species in Region 6 of the Forest Service, and *Horkelia hendersonii* is considered a sensitive species in both Regions 5 and 6 of the Forest Service. Forest Service policies for sensitive species discourage or prohibit activities that would increase the need for Federal listing under the Act. The Oregon Natural Heritage Program prepared management guidelines for *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* under contract for the Forest Service in 1987. The Forest Service began the monitoring of both these species per this guidance, and the populations at Mount Ashland appear to be stable. The primary objective of the management guidance was to maintain or increase population numbers of these species and protect habitat. Since few new disturbances have occurred in occupied habitats, and the monitored populations appear to be stable, Forest Service

management has been at least minimally successful in achieving this objective.

The Forest Service and the Service have developed a CA for both species across their ranges. This effort was initiated in 1995 as a cooperative agreement with the Oregon Natural Heritage Program to develop conservation agreements for selected high priority candidate species. The management goal of the CA is to maintain stable or increasing populations of *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* across their known ranges. This CA is to remain in effect in perpetuity. Development of the CA was based on our draft Policy for Evaluation of Conservation Efforts (PECE policy) (65 FR 37102). The conservation efforts that the parties have agreed to are identified in the CA, along with details indicating anticipated staffing, funding levels and source, and other resources necessary to implement projects to protect and monitor the species.

Overall, threats to these species and their habitat are generally low in magnitude. The trampling of habitat and individual plants, and soil compaction, both associated with summer activities, are occurring in only small areas of occupied habitat. Under the CA, the Forest Service is implementing actions to reduce or remove any remaining impacts to these species and their habitat.

Finding

We have reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with biologists and researchers familiar with *Lupinus aridus* spp. *ashlandensis* and *Horkelia hendersonii*. On the basis of the best scientific and commercial information available, we find the petitioned action is not warranted. We find that the overall imminence and magnitude of threats to *Lupinus lepidus* var. *ashlandensis* and *Horkelia hendersonii* is relatively low. Both species occur exclusively on lands managed by the Forest Service, and their distribution has historically been limited. The population distributions and numbers are thought to relate closely to their original extents.

We will continue to monitor the status of these species. Should an emergency situation develop with one or both of these species, we will act to provide immediate protection, if warranted. We ask the public to submit to us any new information that becomes available concerning the status of or threats to these species. This information will help us monitor and

encourage the conservation of these species.

References Cited

A complete list of all references cited herein is available upon request from the State Supervisor, Oregon Fish and Wildlife Office (see ADDRESSES section).

Author(s)

The authors of this document are Andy Robinson, Brendan White, and Kathy Pendergrass, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 et seq.).

Dated: January 26, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03-3019 Filed 2-6-03; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-day Finding on a Petition To List the Western Sage Grouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the western sage grouse (*Centrocercus urophasianus phaios*) under the Endangered Species Act of 1973, as amended. We find that the petition does not present substantial scientific or commercial information indicating that listing this subspecies may be warranted, on the basis of our determination that there is insufficient evidence to indicate that the western population of sage grouse is a valid subspecies or a Distinct Population Segment (DPS). We will not be initiating a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of or threats to the western population of sage grouse. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on January 26, 2003. You may submit new information