



September 17, 2015

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Public Comments Processing Division of Policy and
Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive
MS 2042-PDM
Arlington, VA 22203

**Re: Comments on the Proposed Rule on Endangered and Threatened Wildlife and
Plants; Revisions to the Regulations for Petitions**
Docket Nos. FWS–HQ–ES–2015–0016; DOC 150506429–5429–01; 4500030113

This letter provides comments on behalf of the Western Urban Water Coalition (WUWC) on the proposed rule jointly published by the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS) (together, the Services) to improve the content and specificity of petitions and to enhance the efficiency and effectiveness of the petitions process. See 80 Fed. Reg. 29286, May 21, 2015 (Proposed Rule). WUWC appreciates the opportunity to comment on the Services’ Proposed Rule.

Created in June 1992 to address the West’s unique water issues, WUWC consists of the largest urban water utilities in the West, serving over 35 million western water consumers in major metropolitan areas in five states. The membership of WUWC includes the following urban water utilities: Arizona – Central Arizona Project, City of Phoenix and Salt River Project; California –Eastern Municipal Water District, Los Angeles Department of Water and Power, the Metropolitan Water District of Southern California, San Diego County Water Authority, San Francisco Public Utilities Commission, and Santa Clara Valley Water District; Colorado – Aurora Water, Colorado Springs Utilities, and Denver Water; Nevada – Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority; and Washington – Seattle Public Utilities.

WUWC is committed to presenting a new and different perspective on the management of water resources in the modern West. WUWC seeks to articulate the needs and values of Western cities to provide a reliable, high quality urban water supply for present and future generations, while preserving the unique environmental and recreational attributes of the West. The WUWC is an active public and legislative advocate for progressive water and resource management. It encourages water sharing and transfers, supports an adequate supply of water for environmental and recreational purposes, advances multi-purpose storage opportunities,

promotes water conservation, and advocates for effective and practicable approaches to the implementation of environmental protection programs in a time when water is becoming more scarce and critical to the West's sustainability. Many WUWC members are at the forefront of water reuse, conservation and optimization. WUWC members consistently seek water supplies from non-traditional sources.

Many of the foregoing activities undertaken by WUWC members trigger the consultation requirements of the ESA. For this reason, WUWC is concerned about the efficacy of the procedures used by the Services for all aspects of ESA implementation. WUWC has actively commented on earlier proposals involving implementation of the ESA.

Throughout its long track record with the ESA, the WUWC has stressed the importance of reasonable administrative reform to make the ESA work better, both for species and for reasonable and responsible resource development. For example, we have been pleased to play an active role in the development of, and support for, Secretary Babbitt's five point ESA plan and Secretary Kempthorne's cooperative conservation initiative. Our members have been active participants in HCP, safe harbor agreements, and candidate conservation agreements. We have opposed unnecessary legislation that would weaken the Act. These are efforts we take pride in, and they have made a difference.

Based on this background, WUWC presents the following comments in response to the Proposed Rule. Generally, WUWC supports the Services' objective of making the listing petition process more efficient and more effective. WUWC also agrees that all necessary information pertaining to each listing petition should be included in the listing petition package.

WUWC supports the intent of the Proposed Rule to ensure that the best available scientific information is submitted in petitions, which should include information obtained from state agencies responsible for fish and wildlife conservation. WUWC supports the proposal that petitioners certify they have gathered and appended to the petition all relevant information that is readily available. Such a requirement would be an efficient mechanism to describe the due diligence exercised by the petitioner that is consistent with the authority of the Services to define the requirements for a sufficient listing. Petitioners should be required to describe the sources of information that were contacted or researched in preparing their request. This description, certified as part of an ESA petition, would make it clear to the Services what sources have been considered and whether the relevant state agencies have been consulted.

The Proposed Rule identified that certain factors may be considered in determining how to proceed with a petition to revise critical habitat. Among these factors, the Services identified they would consider the precedent that accepting the petition might set for subsequent requested revisions. WUWC believes this is not a reasonable factor, and that decisions regarding revisions to critical habitat should be made based on conservation and recovery of the relevant species.

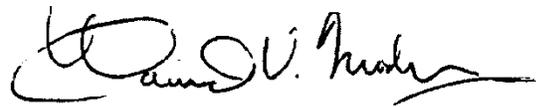
Finally, WUWC seeks to participate in additional administrative steps the Services plan to undertake to improve the administration of the ESA. In the May 19, 2015 press release announcing the Proposed Rule, the Services identified additional proposed actions to improve the administration of ESA that the Services plan to unveil in the coming year. These actions include: (1) strengthening procedures for the online publication of information related to

proposed listing and critical habitat rule notices; (2) updating guidance on the use of voluntary conservation efforts, such as Safe Harbor agreements and Candidate Conservation Agreements; (3) proposing revisions to interagency consultation procedures to streamline the process for projects that result in a net conservation benefit; (4) updating the Habitat Conservation Planning Handbook; and (5) updating policy regarding the role of state agencies to reflect advancements in collaboration between the Services and states.

WUWC believes the planned proposals would promote the efficient and effective administration of the ESA and supports the Services moving forward with the proposals. WUWC suggests that the Services do so expeditiously to preserve continuity and connectedness in the scope of administrative improvements. WUWC requests that the Services seek input from stakeholders in the development of the proposed reforms prior to their issuance. WUWC would be pleased to share its ideas with the Services.

Thank you for your consideration of these comments. If you have any questions, please contact our counsel Donald C. Baur of Perkins Coie, LLP at (202) 654-6200.

Sincerely,

A handwritten signature in black ink, appearing to read "David Modeer". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

David Modeer
Chair
Western Urban Water Coalition

cc: Donald C. Baur
Perkins Coie LLP
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