



March 10, 2016

Submitted via Federal eRulemaking Portal: <http://www.regulations.gov>

Public Comments Processing
Attn: FWS–R6–ES–2015–0102
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: 90-Day Finding on Petition to List the Narrow-Foot Diving Beetle Under the Endangered Species Act of 1973

Dear Sir/Madam:

The U.S. Fish and Wildlife Service's (FWS) Evaluation of a Petition to List the Narrow-foot Diving Beetle (the beetle) under the Endangered Species Act of 1973 (ESA) demonstrates that listing is not warranted at this time. The petition lacks substantial scientific information on population, habitat trends and other threats necessary to warrant a listing.

Western Energy Alliance represents over 450 members involved in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

Although the petition review finds no adverse impacts to the beetle from oil and natural gas development, a listing decision could negatively impact our members' ability to operate in the range. Therefore, we appreciate the opportunity to comment and respectfully request you take these comments into full consideration when conducting the species review.

Factors in a Listing Decision

The listing petition identified six possible factors that could potentially warrant an ESA listing, ranging from stream diversion and livestock grazing to climate change. Of these six factors, FWS found just three of the factors were substantially supported, and notably population levels, habitat fragmentation, and a lack of sufficient regulatory mechanisms were *not* identified as potential threats. These

factors should form the core of a potential listing decision, and the fact that none of them is a threat to the beetle clearly indicates there is no basis to warrant a listing decision.

The petition review finds substantial information supporting livestock grazing, stream diversion, and climate change as active threats to the beetle. However, as discussed above the petition does not present any information that these factors are threatening or endangering the species; it merely finds that they have an impact on the population. Numerous factors impact the population of every species on earth; the mere fact that one anthropogenic or ecological factor affects the population of a species cannot be sufficient evidence for a listing decision in and of itself. Carried to its logical conclusion, such a determination would require the listing of every single species.

The petition review rejects the idea that current population levels indicate the beetle is at risk. It also rejects inadequacy of regulatory mechanisms as a factor, finding no evidence that current regulatory mechanisms are insufficient to protect the beetle. Finally, there is no discussion in the petition of habitat fragmentation, the presence or absence of which may help in determining whether the species population is at risk. The lack of such a threat lends further support for denying the listing petition. Ultimately, the petition review findings make clear there is no reason to believe the beetle is threatened or endangered.

Oil and Natural Gas Development

One of the factors identified in the petition as a threat to the beetle is energy development. We support and wish to reiterate FWS's finding that "there is not substantial information presented in the petition or the sources it cites indicating past or future energy development may be a threat to the diving beetle."

Western Energy Alliance is proud of the fact that industry has developed and implemented horizontal drilling and other best practices that have dramatically reduced the overall footprint of oil and natural gas development. Companies have achieved a 70% reduction in surface disturbance in recent years through increased drilling of horizontal wells, every one of which is akin to replacing between 8 and 16 vertical wells.¹ Clustering numerous horizontal wells on one pad further reduces surface disturbance and habitat fragmentation. That record of success provides

¹ ["Oil and gas impacts on Wyoming's sage-grouse: summarizing the past and predicting the foreseeable future,"](#) *Human-Wildlife Interactions* 8(2), David Applegate and Nicholas Owens, Fall 2014, 284-290.

additional support for why oil and natural gas development should remain off the list of threats to the species.

In conclusion, there is no evidence provided in the petition that the Narrow-Foot Diving Beetle's population is threatened or endangered. The petition has failed to provide convincing scientific evidence that listing the beetle is warranted. Western Energy Alliance appreciates the opportunity to provide these comments.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs