



May 16, 2016

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

Public Comments Processing
Attn: FWS-R2-ES-2016-0039
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: 90-Day Finding on Petition to Delist the Southwestern Willow Flycatcher Under the Endangered Species Act of 1973

Dear Sir/Madam:

The U.S. Fish and Wildlife Service (FWS) has issued 90-day findings that indicate there is substantial scientific information supporting a petition to delist the Southwestern Willow Flycatcher (SWWF) under the Endangered Species Act of 1973 (ESA). Western Energy Alliance supports the petition to delist the species and agrees that the action is warranted at this time.

Western Energy Alliance represents over 300 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.

As the delisting petition asserts, a new study of the Willow Flycatcher was published in 2015 that clearly indicates the population has been incorrectly divided into subspecies, including the SWWF.¹ The study determined there are no distinct genetic, ecological, or morphological characteristics of the SWWF that distinguish it from the species level Willow Flycatcher, so the underlying assumptions that led to listing this subspecies as endangered were erroneous.

Specifically, the study found no statistically valid difference in coloration between willow flycatcher populations, no sharp genetic breaks between populations based

¹ Zink, R.M. 2015. Genetics, morphology, and ecological niche modeling do not support the subspecies status of the endangered Southwestern Willow Flycatcher (*Empidonax traillii extimus*). *The Condor, Ornithological Applications*, Volume 117.

on location, and a broad ecological tolerance among the species in general. Because these three characteristics were relied upon in identifying the SWWF subspecies, a lack of scientific evidence for those characteristics means that the SWWF was misclassified at the time of the listing and should be delisted now.

As the petition states, “existing subspecies of the willow flycatcher, including SWWF, are not biologically valid as entities that are eligible to be listed under the ESA.” Furthermore, “the FWS identification of the SWWF as a spate subspecies of the willow flycatcher was a classification error, unsupported by credible scientific data. New data and information, developed since the listing, confirm that the SWWF is nothing more than the widespread willow flycatcher.” New scientific findings have disproven the original justifications for listing the SWWF, so it should be removed from the list of endangered species.

Western Energy Alliance greatly appreciates the opportunity to provide these comments. Please do not hesitate to contact me with any further questions.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs