



May 16, 2016

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

Public Comments Processing  
Attn: FWS–R6–ES–2016–0023  
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 Western Bumble Bee 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 Western Bumble Bee under the Endangered Species Act of 1973 (ESA) demonstrates that listing is not warranted at this time. The petition lacks substantial scientific information that threats specific to the Western Bumble Bee exist to the extent that a listing is warranted.

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.

Although the petition review finds no adverse impacts to the Western Bumble Bee 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.

The listing petition identified nine possible factors that could potentially warrant an ESA listing, ranging from urban development and livestock grazing to climate change. Of these nine factors, FWS found that four of the factors were not substantially supported for the species: agricultural intensification, urban development, livestock grazing, and fire suppression.

The petition review determines there is substantial information supporting disease, pesticide use, and climate change as active threats to the Western Bumble Bee. However, the petition does not present any information that these factors are actually threatening or endangering *the petitioned species specifically*. Instead, the petition presents information that these factors may impact bumble bee and pollinator species generally, and since the Western Bumble Bee is a pollinator, it *may* be impacted by these factors. The petition review form repeatedly states that FWS will “evaluate this factor further during the 12-month finding status review process.” Simply put, this is insufficient for a finding that the petitioned action may be warranted.

The standard for a positive 90-day finding on a listing petition is whether the petition “contains detailed narrative justification for...any threats faced by the species.”<sup>1</sup> Under this standard, the petition is clearly lacking because there is no evidence provided that the petitioned species is threatened by the three factors.

For instance, the discussion of disease identifies pathogens associated with the commercial rearing of bumble bees that potentially have negative impacts on those bees. The review form then suggests that “Western Bumble Bees in the wild have been recorded with higher pathogen levels than many co-occurring species, which suggests the species may be more susceptible to these pathogens.” The petition does not present any scientific evidence that this is the case; instead, this is mere speculation on behalf of the petitioners. Speculation is not sufficient to provide a “detailed narrative justification,” so unless and until substantial scientific information is provided that the identified pathogens actually cause disease in the Western Bumble Bee, this factor should be dismissed.

Regarding pesticide use, the petition review form finds that “publications cited by the petitioner demonstrate the growing body of evidence suggesting that pesticide use may be negatively impacting bumble bees and pollinators in general.” Once again, however, there is no scientific evidence provided that the Western Bumble Bee specifically is impacted by pesticide use. A third factor, climate change, is presented and judged through the same general criteria.

If the Fish and Wildlife Service accepts general evidence regarding pollinators and their threats as sufficient to justify a listing for individual species, absent further detail on the species itself, the logical conclusion is to find that all bees are warranted for a listing, an outcome that is clearly antithetical to the intent of the Endangered Species Act. These three factors cannot be used to find that a listing may be warranted.

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<sup>1</sup> 50 CFR 424.14(b)

Another factor identified in the petition as a threat to the Western Bumble Bee is the inadequacy of regulatory mechanisms. However, the argument made in favor of this factor relies solely upon the regulation of pesticide use for commercial bumble bees. As discussed above, there is no scientific evidence presented that pesticides, or in this case the lack of regulation of pesticides, is a specific threat to the Western Bumble Bee. For the same reason presented above, this factor should not be sufficient to justify a finding that the listing may be warranted.

Finally, the petition identifies population dynamics and structure as a threat to the species. The evidence presented for this factor essentially boils down to the argument that the Western Bumble Bee's population is threatened because it is a bumble bee, and that population decline in and of itself is a threat to the species due to their breeding habits. Once again, however, there is no scientific evidence presented that population declines are occurring due to the present breeding habits of the species; instead, research is provided that the "entire *Bombus* subgenus," that is, bumble bees in general, are "more susceptible to extinction than most other species due to their haplodiploid method of sex determination." Until research is provided that shows that current breeding habits of the Western Bumble Bee are threatening the species, this factor is insufficient for a finding that a listing may be warranted.

The discussion of factors that may be threatening the Western Bumble Bee concludes thusly:

We acknowledge that some of the information presented by the petitioners addresses other bumble bee species, and not the western bumble bee...[however] we believe it is reasonable to conclude that the potential threats associated with pesticides, small population size, climate change, or some other presently unknown natural or manmade factor may be contributing to this decline and may be affecting the continued existence of the western bumble bee. We will evaluate this factor further during the 12-month finding status review process.

Ultimately, this statement exposes the flaw in the petition that should lead to a not warranted decision. The petition does not provide a "detailed narrative justification" for any of the nine factors that supposedly threaten the Western Bumble Bee, and as such it fails to provide convincing scientific evidence that a threatened or endangered listing is warranted.

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

Sincerely,



Kathleen M. Sgamma

Vice President of Government & Public Affairs



**WESTERN ENERGY ALLIANCE**