

Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Author

The primary authors of this notice are the staff members of the Caribbean Ecological Services Field Office (see **ADDRESSES**).

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 20, 2012.

**Daniel M. Ashe,**

*Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-ES-R8-2012-0024; 4500030113]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List a Distinct Population Segment of the American Black Bear in Nevada as Endangered or Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to list a distinct population segment (DPS) of the American black bear (*Ursus americanus*) in Nevada as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). For the purposes of this finding, we evaluated whether the petition presents substantial information to indicate whether the petitioned entity (the DPS of the American black bear in Nevada) may be a listable entity. Based on our review, we conclude that the petition does not provide substantial information indicating that the DPS of the American black bear in Nevada may be a listable entity under the Act. Because the petition does not present substantial information indicating that the American black bear in Nevada may be a listable entity, we did not evaluate whether the information contained in the petition regarding threats was substantial. Therefore, we are not initiating a status review in response to this petition. However, we ask the public to submit to us any new information that becomes available concerning the status of, or threats to,

the American black bear in Nevada or its habitat at any time.

**DATES:** The finding announced in this document was made on July 5, 2012.

**ADDRESSES:** This finding is available on the Internet at <http://www.regulations.gov> at Docket Number [FWS-ES-R8-2012-0024]. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502-7147. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

#### FOR FURTHER INFORMATION CONTACT:

Edward D. Koch, State Supervisor of the Nevada Fish and Wildlife Office (see **ADDRESSES**), by telephone 775-861-6300 or by facsimile to 775-861-6301. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we subsequently summarize in our 12-month finding.

##### Petition History

On September 6, 2011, we received a petition dated September 1, 2011, from Big Wildlife and NoBearHuntNV.org, requesting that the American black bear

in Nevada be designated as a DPS and listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required by 50 CFR 424.14(a). In a November 4, 2011, letter to the petitioner, we responded that we reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species under section 4(b)(7) of the Act was not warranted. We also stated that due to a requirement to complete a significant number of listing and critical habitat actions in Fiscal Year 2012, pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, we would conduct our review of the petition when we secured funding for the action. At that point, we anticipated making an initial finding on the petition. This finding addresses the petition.

##### Previous Federal Action(s)

No previous Federal actions have been conducted specifically for American black bears in Nevada. Federal actions have been conducted for black bears in other states, as discussed below.

On February 15, 1983 (48 FR 6752), the Service included the black bear in Pennsylvania in a list of various petitions; the Service determined that the petition to list the black bear in Pennsylvania did not provide substantial information.

On June 21, 1990, the Service published a proposed rule (55 FR 25341) to list the Louisiana black bear (*Ursus americanus luteolus*) as threatened in Louisiana, Mississippi, and Texas. In addition, the Service proposed a designation of threatened for other black bear subspecies found within the range of the Louisiana black bear (Louisiana, Mississippi, Texas) based on similarity of appearance. On January 7, 1992, a final rule was published in the **Federal Register** (57 FR 588) designating threatened status for the Louisiana black bear and other black bears within its range due to similarity of appearance.

##### Species Information

American black bears are large mammals with fur color that can be black or cinnamon (Hall 1946, p. 171). They are considered plantigrades (walk on whole sole of foot) and both the front and rear feet have five toes; claws are longer on the front feet than on the hind feet, and the tail is short (Hall 1946, p. 171). The profile is rather blunt; the eyes are small, and the nose pad is

broad with large nostrils (57 FR 588). During summer, adult males generally weigh between 300 and 350 pounds (lbs) (135–158 kilograms (kg)) and adult females about 150 lbs (68–90 kg) (Lackey 2004, p. 8). Large males may weigh in excess of 600 lbs (272 kg), but weight varies greatly throughout the species' range (57 FR 588).

According to Hall (1981, p. 950), there are 16 subspecies of black bear in North America. Collectively, these subspecies number approximately 800,000–900,000 bears in North America with about 400,000 in the United States (Williamson 2002, p. 12; Renda 2010a, no page number; Big Wildlife and NoBearHuntNV.org 2011, p. 6).

The American black bear is adaptable and inhabits forests, swamps, tundra, and even the edges of suburbia (Bowers *et al.* 2004, p. 142; Big Wildlife and NoBearHuntNV.org 2011, p. 7). American black bears are considered omnivores, able to eat many types of plant and animal material including fruits, berries, nuts, roots, grass, seeds, grubs, birds, fish, small mammals, and carrion (Bowers *et al.* 2004, p. 143; Big Wildlife and NoBearHuntNV.org 2011, p. 8). They are considered intelligent, with learning capabilities (Jonkel 1978, p. 227; Big Wildlife and NoBearHuntNV.org 2011, p. 7). In addition, they are tolerant of humans (Lackey 2004, p. 13). American black bears have learned to associate humans (including their homes and vehicles) with food, leading some black bears to move into urban areas (Lackey 2004, p. 13). This can lead to conflict or damage between the two species (Beckmann and Berger 2003, pp. 595–596; Beckmann and Lackey 2004, p. 269; Lackey 2004, p. 23; Breck *et al.* 2008, p. 429; Big Wildlife and NoBearHuntNV.org 2011, p. 7).

Bears, in general, are wide-ranging animals with low reproductive rates and low population densities (Jonkel 1978, pp. 227, 231). The size of the habitat needed by bears is generally related to the abundance and availability of food (Jonkel 1978, p. 238) and the age and sex of the bear (Lackey 2004, p. 13). Males will have larger home ranges than females and may overlap with other males and females (Lackey 2004, p. 13). Bears can live within home ranges that are small, provided there are many available foods (Jonkel 1978, p. 238). American black bear home ranges have been recorded to be as small as 1 square mile (mi<sup>2</sup>) (2.6 square kilometers) (km<sup>2</sup>) (Jonkel 1978, p. 238). American black bears are capable of moving considerable distances in their search for food or mates, and they are known to return to their former habitat upon

relocation (Beckmann and Lackey 2004, pp. 270–271; Big Wildlife and NoBearHuntNV.org 2011, p. 7).

Sexual maturity for American black bear males occurs at about 4–6 years of age; the age of sexual maturity for females is about 4–5 years (Lackey 2004, p. 11). American black bears mate in the spring, with the embryo(s) implanting in the fall; generally two or three cubs are born in January or February (Bowers *et al.* 2004, p. 142). The cubs do not emerge from the den until spring and stay with their mother until they are about 18 months old, at which time they disperse (Bowers *et al.* 2004, p. 142).

American black bears in western Nevada belong to the subspecies *Ursus americanus californiensis*, which is found in the Sierra Nevada of California and Nevada and the Cascade Range of northern California and south central Oregon (Hall 1981, pp. 949–950). Known as the Sierra Nevada population, it is estimated to consist of 10,000–15,000 individuals (Renda 2010b, no page number). We accept the characterization of all American black bears in Nevada as subspecies *U. a. californiensis* based on Hall (1981, pp. 949–950) and Lackey (2004, p. 30).

Hall (1946, pp. 171, 175) indicates that the historical distribution of American black bears in Nevada occurred near the vicinity of Lake Tahoe (Douglas and Washoe Counties, Nevada) on the border of Nevada and California. However, Lackey (2004, pp. 2–3, 15) states that the American black bear in Nevada historically occurred in several mountain ranges in the northeastern (Jarbidge and Ruby), central (Toiyabe), and western (Sierra Nevada) portions of the State.

Currently, American black bears in Nevada are known to occur in the Carson (includes Lake Tahoe), Sweetwater, Pine Nut, and Wassuk Ranges of western Nevada (Beckmann and Berger 2003, p. 597; Lackey 2004, p. 19; Big Wildlife and NoBearHuntNV.org 2011, p. 7). Goodrich (1993 cited in Lackey 2004, p. 15) mentions these ranges and also includes the Excelsior Range in Mineral County. Confirmed recent American black bear sightings have occurred in the Delano, Independence, and Jarbidge Mountains of Elko County; the Schell Creek Range of White Pine County; and the Vya Rim of northern Washoe County (Nevada Department of Wildlife (NDOW), unpublished data cited in Lackey 2004, p. 15). These sightings may indicate that the American black bear in Nevada is expanding its range eastward (Lackey 2004, p. 30).

There are currently an estimated 150–300 adult American black bears living

on the Nevada side of the Lake Tahoe Basin and in the mountain ranges to the south (Sonner 2011, no page number, Big Wildlife and NoBearHuntNV.org 2011, p. 6). During the early 1990s in Nevada, wild-land American black bears (bears with almost 100 percent of their point locations outside of urban areas, in the Carson Range of the Sierra Nevada, Sweetwater Range, Pine Nut Range, and Wassuk Range) were at a density of 20–40 bears/39 mi<sup>2</sup> (20–40 bears/100 km<sup>2</sup>) (Beckmann and Berger 2003, pp. 597–598). During the late 1990s and early 2000s, urban-interface American black bears (bears with 90 percent or more of their point locations inside urban areas defined by town and city delineation in Carson City, Incline Village, Glenbrook, Stateline, Minden, and Gardnerville, Nevada and South Lake Tahoe, California), which did not exist in the late 1980s (Goodrich 1990 cited in Beckmann and Berger 2003, p. 598), reached a density of 120 bears/39 mi<sup>2</sup> (120 bears/100 km<sup>2</sup>) (Beckmann and Berger 2003, pp. 597–598). Wild-land American black bears were found at a density of 3.2 bears/39 mi<sup>2</sup> (3.2 bears/100 km<sup>2</sup>) during the same period (Beckmann and Berger 2003, p. 598). The availability of food resources, such as garbage, in urban areas is suggested to have resulted in a redistribution of American black bears across the landscape in Nevada (Beckmann and Berger 2003, p. 602), likely increasing the number of American black bears in urban-interface areas while decreasing the number of American black bears in wild-land areas.

Nevada Department of Wildlife estimates that the American black bear population in Nevada is growing at an annual rate of 16 percent (Sonner 2011, no page number). Beckmann and Berger (2003, p. 602) were uncertain if the American black bear population had increased in their western Nevada study area (Carson, Sweetwater, Pine Nut, and Wassuk Ranges). While these authors reported population numbers similar to Goodrich (1990 cited in Beckmann and Berger 2003, p. 602), they suggested that the increase in numbers may be the result of a shift of individuals from wild-land areas to urban-interface areas rather than an increase in population size. During 1997–2002, Beckmann (2002, p. 20) and Beckmann and Berger (2003, p. 602) estimated Nevada's American black bear population at about 300 in the Carson, Sweetwater, Pine Nut, and Wassuk Ranges collectively. This number is similar to an estimate of 150–290 animals in the same population based on an extrapolation of Goodrich's density

estimate of 20–41 bears/39 mi<sup>2</sup> (20–41 bears/100km<sup>2</sup>) (Goodrich 1990 cited in Beckmann 2002, p. 20; Beckmann and Berger 2003, p. 602) to the total area of available habitat. The petitioners did not provide, nor do we have in our files, the information NDOW used to determine that the American black bear population in Nevada is increasing at an annual rate of 16 percent. While the petition presents information on the total number of mortalities (104) that occurred during the period from 1997 to 2004, we do not have data that indicate the American black bear population in Nevada is declining as stated in the petition (Big Wildlife and NoBearHuntNV.org 2011, p. 9). Based on the petition and information available in our files indicating past population estimates, the current American black bear population in Nevada appears to be stable.

#### Review of Petition

The petition requests that the American black bear in Nevada be listed as a DPS under the Act. The petition states that the American black bear in Nevada is threatened by habitat loss due primarily to residential development and recreational encroachment (Big Wildlife and NoBearHuntNV.org 2011, p. 5). The petition also states that, due to increasing interactions with humans, anthropogenic killing of these bears is identified as significant and increasing (Big Wildlife and NoBearHuntNV.org 2011, p. 5). In addition, NDOW authorized, for the first time, a fall hunt in 2011; the petition asserts that hunting will further endanger this population (Big Wildlife and NoBearHuntNV.org 2011, p. 5).

The petition asserts that the American black bear in Nevada should be listed under the Act as a DPS because Nevada's black bears are markedly separated (discrete) from other populations of American black bears due to physical and behavioral factors (Big Wildlife and NoBearHuntNV.org 2011, p. 13). The petition cites Breck *et al.* (2008) in support of genetic and behavioral differences related to conflict behavior between people and American black bear populations in Yosemite National Park, California, and Lake Tahoe Basin, Nevada (Big Wildlife and NoBearHuntNV.org 2011, p. 13).

The petition also asserts that the American black bear population in Nevada is significant due to the bear's continued existence in western Nevada since the early 1990s in forested, mountain range habitat that is isolated by wide desert valleys; however, the petition notes that American black bears will occasionally use the desert valleys

in Nevada for travel between mountain ranges (Big Wildlife and NoBearHuntNV.org 2011, p. 13). The petition asserts that this bear habitat in western Nevada is characteristic of the unique Great Basin ecosystem (Big Wildlife and NoBearHuntNV.org 2011, p. 13). The petition asserts that loss of the American black bear population in Nevada would result in a significant gap in the species' range because this population is genetically and behaviorally distinct from other American black bears as indicated above, and, therefore, a unique population would be lost (Big Wildlife and NoBearHuntNV.org 2011, p. 14).

#### Evaluation of Listable Entity

Under the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722, February 7, 1996), three elements are considered in the decision concerning the establishment and classification of a possible DPS. These are applied similarly for additions to or removal from the Federal List of Endangered and Threatened Wildlife. These elements include:

- (1) The discreteness of a population in relation to the remainder of the taxon to which it belongs;
- (2) The significance of the population segment to the taxon to which it belongs; and
- (3) The population segment's conservation status in relation to the Act's standards for listing, delisting (removal from the list), or reclassification (*i.e.*, is the population segment endangered or threatened).

In this analysis, we evaluate whether the petition provides substantial information that the American black bear in Nevada may constitute a DPS.

#### Discreteness

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

- (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.
- (2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

The petition asserts that American black bears in Nevada should be listed

under the Act as a DPS because they are markedly separate from other populations of American black bears due to physical and behavioral factors, citing Breck *et al.* (2008) (Big Wildlife and NoBearHuntNV.org 2011, p. 13). Review of Breck *et al.* (2008) does not support this assertion. Breck *et al.* (2008, p. 428) investigated whether food-conditioning behavior (discussed more fully in the following paragraphs) was inherited or learned through parent-offspring social learning. This study involved the collection of genetic samples (blood and hair) from two American black bear populations: Lake Tahoe Basin, Nevada, and Yosemite National Park, California. Both populations evaluated in this study comprised individuals who were not food-conditioned as well as those who were food-conditioned (Breck *et al.* 2008, pp. 431–432). Breck *et al.* (2008) used genetic data to determine relatedness of individuals through mother-offspring and sibling relationships within each population. These relationships were then used to determine how food-conditioning behavior was acquired. If behavior is inherited or if parent-offspring learning is a dominant means for obtaining behavior, then behaviors that are of significant advantage should lead to subpopulations of related individuals with similar behaviors (Breck *et al.* 2008, p. 428).

Breck *et al.* (2008) did not analyze their genetic data to evaluate the degree of genetic divergence between the Lake Tahoe Basin, Nevada, and Yosemite National Park, California populations. In order to determine the degree of genetic similarity among populations, genetic material should be obtained from many individuals from different geographic areas to assess patterns and amounts of gene flow among populations (Allendorf and Luikart 2007, pp. 393–394). The genetic information presented in Breck *et al.* (2008, pp. 430–431) does not support the petition's assertion that the American black bear population in Nevada is markedly separate from other American black bear populations. We do not have additional information in our files addressing the genetics of other American black bears found in Nevada or California. Therefore, substantial information was not provided in the petition, and information available in our files does not suggest, that American black bears in Nevada may be markedly separate from other American black bears found outside of Nevada based on genetics.

As indicated above, Breck *et al.* (2008, p. 428) investigated whether food-conditioning behavior was inherited or

learned through parent-offspring social learning. Learning can also occur asocially (independently of others) and socially (observing unrelated individuals) (Breck *et al.* 2008, p. 428). The authors concluded that three of their four analyses were similar in that they revealed little evidence that food-conditioning behavior was inherited or learned from the parent-offspring relationship (Breck *et al.* 2008, p. 431). While their fourth analysis indicated some statistical difference for the food-conditioned category compared with the other category pairings (nonfood-conditioned compared to nonfood-conditioned; nonfood-conditioned compared to food conditioned) for American black bears at Yosemite National Park, they also concluded that it did not show strong evidence that food-conditioning behavior was inherited or learned from the parent-offspring relationship (Breck *et al.* 2008, p. 432). They concluded that this fourth analysis was statistically significant, but not biologically meaningful, and the result may be attributable to the large sample size of the study (Breck *et al.* 2008, p. 432).

While food-conditioning behavior could be learned from the parent-offspring relationship or through inheritance, these are not the primary means of learning (Breck *et al.* 2008, p. 433). Breck *et al.* (2008, p. 433) state that, because American black bears are adaptable, it is unlikely that a behavior that can be applied under various environmental conditions and over a large geographic area would result in a genetic lineage that is distinct. Breck *et al.* (2008, pp. 430–431) do not support the petition's assertion that the American black bear population in Nevada may be markedly separate from other populations of American black bears outside of the State due to behavioral differences. The petition does not provide substantial information, nor do we have information in our files, to indicate that American black bears in Nevada may be markedly separate from other American black bears outside of Nevada based on behavioral factors.

There is further lack of support for the claim that American black bear populations between Nevada and California are markedly separate because the American black bear population in Nevada is not physically separated from American black bears in California, nor is the habitat used by American black bears in Nevada unique. While Lake Tahoe (and its Basin) is divided by the State boundary between California and Nevada, it is not a complete physical barrier to American

black bear movement between the two States; American black bears are found throughout the Sierra Nevada (Zielinski *et al.* 2005, pp. 1396, 1400) and can move between the two States in the Basin as well as to the north and south of the Basin. There is no physical barrier or terrain along the remaining State boundary north or south of Lake Tahoe (and its Basin) within the range of the subspecies that prevents cross-border movement. Beckmann (2002, pp. 39, 42–43) provides home range maps of collared Nevada and California American black bears that demonstrate individuals' use of habitat in both States on both the north and south ends of Lake Tahoe. Also, the American black bear population in Nevada is not isolated by individual mountain ranges within the State. Beckmann (2002, pp. 42–43) demonstrated overlap of American black bear home ranges in central Nevada. This wide-ranging species can travel long distances and is capable of, and has been documented, crossing desert valleys between mountain ranges in Nevada (Beckmann and Lackey 2004, p. 271).

The petition asserts that American black bear habitat in western Nevada (forested mountain ranges isolated by valleys) is characteristic of the unique Great Basin ecosystem (Big Wildlife and NoBearHuntNV.org 2011, p. 13). American black bears are adaptable and are found in many habitat types across North America (Bowers *et al.* 2004, p. 142; Big Wildlife and NoBearHuntNV.org 2011, p. 7). The use of forested mountain habitats by American black bears in Nevada is not unique (Zielinski *et al.* 2005, p. 1385). Forested mountain ranges are not unique to Nevada, nor do they terminate discretely at the State border. The Great Basin covers a large geographic area in the western United States and includes portions of the States of Oregon, California, Nevada, Utah, and Idaho (70 FR 73190, December 9, 2005). This geographic area extends well beyond the boundaries of Nevada. The Great Basin does not lie wholly within the State of Nevada nor does it correspond to Nevada State boundaries. The petition does not provide substantial information, nor is there information available in our files, to suggest that the American black bear in Nevada may be markedly separate from other populations of American black bears outside of Nevada due to physical or geographic reasons.

The petition does not present information to suggest there may be a markedly separate population of American black bears in Nevada due to physiological reasons. Additionally, we

do not have information in our files to indicate that the American black bear in Nevada may be markedly separate from other American black bears outside of this area due to physiological reasons.

Substantial information is not presented in the petition, nor is it available in our files, to suggest there may be a markedly separate population of American black bears in Nevada due to physical, physiological, ecological, or behavioral differences as compared to American black bears located in the Sierra Nevada of California and elsewhere. Therefore, we determine, based on the information provided in the petition and in our files that the American black bear population in Nevada may not be markedly separate from other black bear populations found outside of the State. Therefore, we conclude that the black bear population in Nevada does not meet the discreteness criterion of the 1996 DPS policy.

There are no international governmental boundaries associated with this subspecies that are significant. The American black bear population found in Nevada lies wholly within the United States. Because this element is not relevant in this case for a finding of discreteness, it was not considered in reaching this determination.

#### *Significance*

If a population segment is considered discrete under one or more of the conditions described in our DPS policy, its biological and ecological significance will be considered in light of Congressional guidance that the authority to list DPSs be used "sparingly" while encouraging the conservation of genetic diversity. In making this determination, we consider available scientific evidence of the discrete population segment's importance to the taxon to which it belongs. Since precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy does provide four possible reasons why a discrete population may be significant. As specified in the DPS policy (61 FR 4722), this consideration of the population segment's significance may include, but is not limited to, the following:

- (1) Persistence of the discrete population segment in an ecological setting unusual or unique to the taxon;
- (2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;

(3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or

(4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

A population segment needs to satisfy only one of these criteria to be considered significant. Furthermore, the list of criteria is not exhaustive; other criteria may be used as appropriate.

Because we must find a population to be both discrete and significant to qualify as a DPS, and we did not find the population to be discrete, we will not address the potential significance of the American black bear in Nevada to the remainder of the taxon, nor will we evaluate the population's conservation status.

#### Conclusion of Distinct Population Segment Review

Based on the information provided in the petition and in our files, we find that the petition does not provide substantial information to indicate that the American black bear population in Nevada meets the discreteness criterion of the DPS policy. Since both discreteness and significance are required to satisfy the DPS policy, we have determined that the American black bear population in Nevada does not qualify as a DPS under our policy and, therefore, is not a listable entity

under the Act. As a result, no further analysis under the DPS policy is necessary.

#### Finding

We reviewed the information presented in the petition, and we evaluated that information in relation to information readily available in our files. On the basis of our review, we find that neither the petition, nor information readily available in our files, suggests that the American black bear population in Nevada meets the criteria for being discrete under our DPS policy. Available information from the petition and our files does not suggest there may be a markedly separate population of American black bears in Nevada compared with other populations due to physical, physiological, ecological, or behavioral differences. The American black bear in Nevada is not found to be markedly separate from other American black bear populations because it is not physically separate from other adjacent populations due to various kinds of barriers, it is not genetically different and does not demonstrate physiological or behavioral differences, nor does it occur in ecological settings in Nevada that are dissimilar from other areas occupied by the American black bear. Because the petition does not present substantial information that the American black bear in Nevada may be a DPS, we did not evaluate whether the information contained in the petition regarding the conservation status was

substantial. We conclude that the American black bear in Nevada does not satisfy the elements of being a DPS under our 1996 policy and, therefore, is not a listable entity under section 3(16) of the Act.

We encourage interested parties to continue to gather data that will assist with the conservation of the American black bear in Nevada. If you wish to provide information regarding the American black bear in Nevada, you may submit your information or materials to the State Supervisor, Nevada Fish and Wildlife Office (see **ADDRESSES**), at any time.

#### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Author

The primary authors of this notice are the staff of the Nevada Fish and Wildlife Office (see **ADDRESSES**).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 19, 2012.

**Daniel M. Ashe,**

*Director, U.S. Fish and Wildlife Service.*

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