

Year-End Information Quality Report Format

I. Cover Sheet: Requests for Correction Received FY 2003

Department Name: Department of the Interior

Period Covered: October 1, 2002---September 31, 2003

Agency Name	Number of Requests Received	Number Designated as Influential
U.S. Fish and Wildlife Service	six	five

II. 1. Atlantic salmon

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Atlantic Salmon of Maine (ASM).
- **Date Received:** March 31, 2003, mail.
- **Summary of Request:** The Service received a request on behalf of Atlantic Salmon of Maine (ASM) for correction of: (1) The September 2002 draft biological opinion (BO) to the U.S. Army Corps of Engineers (Corps) on the proposed continuation of existing permits authorizing the installation and maintenance of fish pens within the State of Maine with conditions to protect endangered Atlantic salmon (draft Corps BO) and; (2) the January 2001 *Final Biological Opinion on the U.S. Environmental Protection Agency's (EPA) Proposed Approval of the State of Maine's Application to Administer the National Pollutant Discharge Elimination System (NPDES) Permit Program* (EPA BO).
- **Description of requested information:** ASM contended that the Service could not rely upon the King Study in the development of biological opinions because it did not meet the standards established by the IQA and that the Service needed to reexamine the applicability of outbreeding depression to wild salmon in Maine.
- **Influential:** Yes.
- **First Agency Response:** On July 2, 2003 the Service notified ASM that it was extending the date of resolution.
- **Resolution:** On August 7, 2003, the Service completed its analysis of the issues raised in the ASM request and responded as follows, "as required by the ESA, the Service relies on the best available scientific and commercial information available when writing biological opinions. Our reliance on the best available science and information available at the time of the EPA BO has been confirmed and supported by the publication of additional peer-reviewed scientific literature and the NRC report." As a result of the Service's analysis, the agency found that no correction of information was warranted.
- **Appeal Request:** ASM did not appeal.

2. Slickspot peppergrass.

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Dr. Terry Bashore, U.S. Air Force.
- **Date Received:** March 31, 2003, mail.
- **Summary of Request:** Correction of information concerning the Service's proposed rule to list *Lepidium papilliferum* (slickspot peppergrass) as an endangered species.
- **Description of Requested Correction:** Rewrite the notice because there is a lack of scientific evidence to support or reject claims; lack of scientific peer review; questions on taxa; inaccurate, confusing, and misleading presentation of listing arguments; insufficient population surveys, and a total lack of scientific data to warrant listing.
- **Influential:** Yes.
- **First Agency Response:** On July 10, 2003 the Service notified Dr. Bashore that it was extending the date of resolution.
- **Resolution:** On July 18, 2003, the Service announced a 6-month extension of the deadline for a final determination of whether to list slickspot peppergrass under the Endangered Species Act (ESA) and reopened the public comment period on the proposed rule to list the species. We took that action because there was substantial disagreement regarding the sufficiency and interpretation of the available data relevant to the proposed listing rule, making it necessary for us to solicit additional information by reopening the public comment period. The date for submitting the agency's final determination on the proposed listing to the Federal Register has been extended to January 15, 2004.
- **Appeal Request:** August 1, 2003.
- **Summary of Request for Reconsideration:** Reopening the comment period does not correct the Notice to List.
- **Type of Appeal Process Used:** Subsequent communications took place between the Service and the Air Force.
- **Appeal Resolution:** A response to the Air Force's IQA request will be provided in the final rule. Although the delay in the listing action was not predicated by the IQA request, delaying the listing action, and implementing an open review process did in fact, respond to the request for correction. This process will be the venue in which the Service ensures that the final listing determination for slickspot peppergrass addresses comments regarding quality, utility, and objectivity standards, as outlined in the U.S. Fish and Wildlife Service's

Information Quality Guidelines. On September 3, 2003, the Service notified the Air Force that no action would be taken on their appeal.

3. Pygmy owl, #1.

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Mr. Jim Chilton, Chilton Ranch and Cattle Company and Dennis Parker, Attorney at Law.
- **Date Received:** April 2, 2003, mail.
- **Summary of Request:** Correction of information concerning: (1) *Cactus Ferruginous Pygmy Owl Draft Recovery Plan*, January 2003, Region 2 U.S. Fish and Wildlife Service, Albuquerque, New Mexico. (68 F.R. 1189) and (2) *Proposed Rule for Designation of Critical Habitat for the Arizona Distinct Population Segment (DPS) of the Cactus Ferruginous Pygmy Owl (Glaucidium brasilianum cactorum)*.
- **Description of Requested Correction:** The information is not presented in an accurate, clear, complete and unbiased manner and is unreliable because it misrepresents the authorities it cites.
- **Influential:** Yes.
- **First Agency Response:** July 25, 2003 notified Mr. Parker that it was extending the date of resolution.
- **Resolution:** On October 8, 2003 the Service responded that in August 2003, the United States Court of Appeals for the Ninth Circuit ruled that the Service had acted arbitrary and capricious in designating the Arizona pygmy-owl population as a Distinct Population Segment under our DPS Policy and remanded the case back to the district court for further proceedings. Because of this pending litigation and any action proceeding from it, the Service has delayed any response to the request. Once the court has acted, the Service will respond to the request accordingly.

4. Trumpeter swan.

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Mr. Eric Wingerter, Public Employees for Environmental Responsibility (PEER).

- **Date Received:** May 28, 2003, mail.
- **Summary of Request:** To correct information in the Service's 90-day finding on a petition to list the Tri-state Area Flocks of the Rocky Mountain Population of trumpeter swans.
- **Description of Requested Correction:** An internal report used by the Service was not subject to peer-review, relied on unsupported statements, failed to utilize accepted methods for information collection and makes misleading selective use of data to support a pre-determined outcome.
- **Influential:** Yes.
- **First Agency Response:** July 30, 2003.
- **Resolution:** The Service completed an analysis of the issues raised in the PEER IQA request. In brief, the request asked that the Service withdraw its 90-day finding. However, the Service did not find any new information in the request that would lead it to conclude that the Tri-state Area Flocks of trumpeter swan are either discrete or significant to the rest of the taxon within the meaning of the ESA. As a result of the agency's analysis, it found that no correction of information was warranted.
- **Appeal Request:** August 9, 2003.
- **Summary of Request for Reconsideration:** The Service relied on selected, incomplete and non-peer reviewed data and should immediately withdraw its 90-day finding.
- **Type of Appeal Process Used:** A panel of Service and USGS senior managers.
- **Appeal Resolution:** As of October 1, 2003, the appeal was still under consideration.

5. Manatees

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Steven E. Webster, Executive Director of Florida Marine Contractors Association.
- **Date Received:** May 29, 2003, public comments, mail.
- **Summary of Request:** The proposed rule is objected to on legal, scientific and economic impacts.

- **Description of Requested Correction:** The rule did not adequately consider economic impacts, used erroneous assumptions and inappropriate measurements in its analysis of boat speed zones and affect on manatees.
- **Influential:** No.
- **First Agency Response:** August 4, 2003.
- **Resolution:** The Service reviewed the comments submitted concerning the proposed rule within the context of the rulemaking process. No further action was necessary with this request.

6. Pgymy owl, #2.

- **Agency Receiving Correction Request:** Department of the Interior, U.S. Fish and Wildlife Service.
- **Requestor:** Gerald M. Howard, National Association of Home Builders.
- **Date Received:** June 27, 2003, mail.
- **Summary of Request:** Correction of information concerning the Service's *Proposed Rule for Designation of Critical Habitat for the Arizona Distinct Population Segment of the Cactus Ferruginous Pygmy Owl (Glaucidium brasilianum cactorum)*.
- **Description of Requested Correction:** Statements disseminated by the Service in its proposed rule are based on unpublished data and personal communications.
- **Influential:** Yes.
- **First Agency Response:** September 2, 2003.
- **Resolution:** On October 8, 2003, the Service responded that in August 2003, the United States Court of Appeals for the Ninth Circuit ruled that the Service had acted arbitrary and capricious in designating the Arizona pygmy-owl population as a Distinct Population Segment under our DPS Policy and remanded the case back to the district court for further proceedings. Because of this pending litigation and any action proceeding from it, the Service has delayed any response to the request. Once the court has acted, the Service will respond to the request accordingly.