

actions on endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The permits were issued only for recovery-related activities, for black-footed ferret (*Mustela nigripes*), American burying beetle (*Nicrophorus americanus*), Interior least tern (*Sterna antillarum athalassos*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Topeka shiner (*Notropis topeka*), bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), razorback sucker (*Xyrauchen texanus*), and pallid sturgeon (*Scaphirhynchus albus*). Each permit was granted only after it was determined to be applied for in good faith, contributing to species conservation and recovery, and consistent with the Act and applicable regulations.

The Service anticipates we will issue a similar number of permits for recovery-related activities pertaining to scientific research and enhancement of survival of endangered species through December 31, 2005. We are soliciting comments on issuance of permits during 2004 and 2005. Information on recovery permits may be obtained from the Assistant Regional Director-Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225-0486; telephone (303) 236-7400, facsimile (303) 236-0027.

Applicant: Michael Parker, Laramie Rivers Conservation District, Laramie, Wyoming, TE-078834.

The applicant requests a permit amendment to extend the expiration date to August 26, 2054 in conjunction with recovery activities under a Safe Harbor Agreement for the purpose of enhancing survival and recovery of the Wyoming toad (*Bufo baxteri*).

Applicant: Kevin Conway, Utah Division of Wildlife Resources, Department of Natural Resources, Salt Lake City, Utah, TE-097129.

The applicant requests a permit to take Utah prairie dogs (*Cynomys parvidens*) in conjunction with recovery activities under a Safe Harbor Agreement for the purpose of enhancing survival and recovery of the Utah prairie dog.

Dated: December 15, 2004.

Elliott Sutta,

Acting Regional Director, Denver, Colorado.
[FR Doc. 05-33 Filed 1-3-05; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We are publishing a draft list of the nonnative bird species that have been introduced by humans into the United States or its territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. This action is required by the Migratory Bird Treaty Reform Act (MBTRA) of 2004. The MBTRA amends the MBTA by stating that it applies only to migratory bird species that are native to the United States or its territories, and that a native migratory bird is one that is present as a result of natural biological or ecological processes. This notice identifies those species that are not protected by the MBTA, even though they belong to biological families referred to in treaties that the MBTA implements, as their presence in the United States and its territories is solely the result of intentional or unintentional human-assisted introductions.

DATES: Submit comments on or before February 3, 2005.

ADDRESSES:

(1) Mail public comments to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, VA 22203.

(2) Hand-deliver public comments and examine materials available for public inspection at U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Room 4000, Arlington, VA 22203.

(3) Fax public comments to (703) 358-2272.

(4) E-mail public comments to nonnativebirds@fws.gov

FOR FURTHER INFORMATION CONTACT: John L. Trapp, (703) 358-1714.

SUPPLEMENTARY INFORMATION:

Authority

Migratory Bird Treaty Reform Act of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005 [H. Rpt. 108-792, Conference Report to Accompany H.R. 4818]).

What Is the Purpose of This Notice?

The purpose of this notice is to provide the public with an opportunity to review and comment on a draft list of "all nonnative, human-introduced

bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply that belong to biological families of migratory birds covered under any of the migratory bird conventions with Great Britain (for Canada), Mexico, Russia, or Japan." The MBTRA of 2004 requires us to publish this list for public comment.

This notice is strictly informational. It merely lists some of the bird species to which the MBTA does not apply. The presence or absence of a species on this list has no legal effect. This list does not change the protections that any of these species might receive under such agreements as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), the Endangered Species Act (16 U.S.C. 1531-1544, 87 Stat. 275), or the Wild Bird Conservation Act (16 U.S.C. 4901-4916, 106 Stat. 2224). Regulations implementing the MBTA are found in Parts 10, 20, and 21 of 50 CFR. The list of migratory birds covered by the MBTA is located at 50 CFR 10.13.

What Criteria Did We Use To Identify Bird Species Not Protected by the MBTA?

In accordance with the language of the MBTRA, each of the species enumerated below meet the following four criteria:

(1) It belongs to a family of birds covered by the MBTA by virtue of that family's inclusion in any of the migratory bird conventions with Canada, Mexico, Russia, or Japan. The Canadian and Mexican treaties list the families of birds that are protected. In the Russian treaty, the specific species covered are listed in an Appendix in which the species are arranged by family. Article VIII of the Russian treaty grants us the authority to use our discretion to protect additional species that belong to the same family as a species listed in the Appendix. The treaty with Japan lists covered species in an Annex without reference to families, and contains no provision that would allow treaty parties to unilaterally add additional species.

(2) There is credible documented evidence that it has occurred at least once in an unconfined state in the United States or its territories.

(3) All of its known occurrences in the United States can be confidently attributed solely to intentional or unintentional human-assisted introductions to the wild. An intentional introduction is one that was purposeful-for example, the person(s) or institution(s) involved intended for it to happen. An unintentional introduction is one that was unforeseen or

unintended—for example, the establishment of self-sustaining populations following repeated escapes from captive facilities. Self-sustaining populations are able to maintain their viability from one generation to the next through natural reproduction without the introduction of additional individuals. In this context, we consider landscape changes caused by agriculture and other forms of human development to be natural ecological processes. These activities may make the environment more amenable for some species that did not historically occur in the United States or its territories and allow them to expand their ranges and colonize these jurisdictions. In the absence of direct human intervention, these new arrivals (e.g., cattle egrets) are considered to be native.

(4) There is no credible evidence of its natural occurrence in the United States unaided by direct or indirect human assistance. The native range and known migratory movements (if any) of the species combine to make such occurrence in the United States extremely unlikely, both historically and in the future. Migratory bird species with credible evidence of natural occurrence anywhere in the United States or its territories, even if introduced elsewhere within these jurisdictions, are listed in 50 CFR 10.13.

What Is the Status of Bird Species Not Protected by the MBTA?

Each species meeting the criteria discussed in the previous section—and thus qualifying as a nonnative, human-assisted species—can be grouped into one or more of the following eight status categories according to the circumstances surrounding its reported occurrence(s) in the United States or its territories. These categories are merely informational and descriptive in nature and have no bearing on determining whether or not a species is nonnative:

(1) Self-sustaining and free-living breeding populations currently exist as a consequence of intentional or unintentional introductions.

(2) Self-sustaining and free-living populations were at one time thought to be established as a consequence of intentional or unintentional introductions, but it is now extirpated (i.e., no longer exists) as a breeding species. Recurring escapes of this species from captive facilities remain a possibility.

(3) It has been introduced and possibly established in the wild (i.e., breeding documented), but some uncertainty remains as to whether self-sustaining populations have been permanently established.

(4) Individuals frequently escape from captive facilities such as zoos, farms, parks, and private collections, where they are common, and may be found in an unconfined state virtually anywhere in the country, but not known to breed in the wild.

(5) Individuals are housed in captive facilities, but escapes are rare, as judged by the low frequency with which they are reported in the wild. Most of these species are represented by five or fewer documented reports of occurrence in the wild, but future escapes are likely.

(6) It was intentionally introduced with the goal of establishing self-sustaining populations, but the release(s) ultimately failed and it no longer occurs in the country. Future introductions are possible.

(7) It is imported by private citizens for use in recreational falconry or bird control at airports, with individual free-flying birds known to escape from their handlers with some regularity.

(8) It has occurred as a result of intentional or unintentional human assistance, but all such occurrences pre-date enactment of MBTA protection for the family to which it belongs. Although not currently known to occur, future introductions are possible.

What About the Mute Swan?

The Fish and Wildlife Service has traditionally excluded nonnative species from the list of migratory birds (50 CFR 10.13) protected by the MBTA. Among the nonnative species listed above, the mute swan was the only species that the Service treated as being protected by the MBTA prior to passage of the MBTRA. In December 2001, the United States Court of Appeals for the District of Columbia Circuit ruled that the Canadian and Mexican conventions appeared to apply to mute swans and invalidated the Service's list of species covered by the MBTA to the extent that it excluded mute swans (*Hill v. Norton*, 275 F.3d 98 (D.C. Cir. 2001)). In December 2003, the mute swan was the major focus of discussion by the seven panel members who presented testimony at a congressional oversight field hearing on exotic bird species and the MBTA conducted by the House Committee on Resources (2003). The major sponsor of the MBTRA succinctly outlined the benefits of excluding nonnative species, including mute swans, from protection of the MBTA (Gilchrest 2004). In separate committee reports, the U.S. House of Representatives (2004) and the U.S. Senate (2004) clearly expressed their views that the mute swan was nonnative and therefore anticipated that the MBTRA would clarify that the mute

swan would not be protected by the MBTA. In fact, Congress's view on the nonnative status of the mute swan is strongly supported by the evidence and the consensus of scientific opinion (American Ornithologists' Union 1931, 1957, 1983, 1998; Ciaranca *et al.* 1997; Johnsgard 1975; Kortright 1942; Long 1981; Palmer 1976; Scott and Wildlife Trust 1972; Sibley and Monroe 1990; Wilmore 1974).

For example, there is no mention of mute swans in the extensive popular and scientific literature on North American birds until 1915, and that is a reference (Job 1915) to successful breeding of the species in captivity in the United States. Forbush (1916) provided the first report of unconfined mute swans in the United States, noting that "many reports of swans seen near Boston followed soon after the escape of European mute swans from the Boston park system." All existing populations of the mute swan in North America are derived from introduced stocks that were released or escaped at different localities and in different years and eventually established feral populations.

North Atlantic: Bump's (1941) reference to the presence of mute swans in New York State "prior to 1900" almost certainly applied to captive or restrained (i.e., wing-clipped or pinioned) birds imported to "private estates" on Long Island and along the lower Hudson River (contra Long 1981). Bull (1974) provides more details on the establishment of "wild" populations, noting that birds were "introduced in 1910 into southeastern New York in the lower Hudson [River] valley * * * and in 1912 on the south shore of Long Island." These introductions involved a total of 216 birds in 1910 and 328 birds in 1912 (Long 1981). An unrestrained feral flock in the lower Hudson River had grown to 26 individuals by 1920 or 1921 (Crosby 1922, Cooke and Knappen 1941). From this nucleus, birds gradually colonized surrounding States in the North Atlantic, with breeding first reported in New Jersey in 1932 (Urner 1932), Rhode Island in 1948 (Willey and Halla 1972), Connecticut in the late 1950's to 1960's (Zeranski and Baptist 1990, Bevier 1994), Massachusetts prior to 1965 (Veit and Petersen 1993), and New Hampshire in 1968 (Foss 1994).

Mid-Atlantic: While mute swans were reported in Maryland as early as 1954, the resident breeding population in the Maryland portion of the Chesapeake Bay has been traced directly to the escape of three males and two females into Eastern Bay from waterfront estates along the Miles River in Talbot County during a storm in March 1962 (Reese 1969, 1975; Robbins 1996). Mute swans

were first reported in Virginia beginning in 1955, mostly as captive birds in waterfowl collections, although some were probably released into the wild. A feral breeding population was not thought to be present until the late 1960's or early 1970's (Kain 1987). The origin of the small Delaware population, where birds were first noted in 1954 and nesting in 1965 (Hess *et al.* 2000) is unclear: it could represent birds that moved south from the North Atlantic, north from the Chesapeake Bay, or an independent introduction.

Great Lakes: In Michigan, a northern flock of mute swans was established following an introduction near East Jordan, Charlevoix County, in 1919; this was followed by the establishment of a southern flock derived mostly from introductions in Kalamazoo and Oakland counties (Brewer *et al.* 1991). Elsewhere in the Great Lakes region, successful nesting of feral mute swans—most likely representing birds dispersing from the sizeable Michigan flocks—was first documented in Indiana in the 1970's (Keller *et al.* 1986, Castrale *et al.* 1998), in Wisconsin in 1975 (Robbins 1991), in Ohio in 1987 (Peterjohn and Rice 1991), and in Illinois since at least 1986 (Kleen 1998).

Pacific Northwest: This is the least well-established and stable of the four principle mute swan population centers in the United States. Mute swans have escaped or been introduced to the wild in Oregon on multiple occasions. Breeding was first noted in the 1920's in Lincoln County (Gilligan *et al.* 1994, Marshall *et al.* 2003), with occasional breeding noted at other localities through the present. In Washington, a small but growing number of birds thought to represent dispersal from the introduced British Columbia population has been established in the Puget Sound lowlands (J. Buchanan, Washington Department of Fish and Wildlife, pers. comm.).

In the past, advocates of Federal protection for the mute swan have taken the position that the mute swan is in fact native to the United States. In support of this view, they have presented three pieces of evidence: (1) Alleged fossil remains, (2) purported descriptions and depictions in historical literature such as Harriott's (1590) "A briefe and true report of the new found land of Virginia" of mute swans in the Chesapeake Bay in the 1500's, and (3) a Currier & Ives print dated 1872 and entitled "The haunts of the wild swan: Carroll Island, Chesapeake Bay" that purportedly depicts mute swans.

The Fossil Evidence: Avian paleontologists have identified fossil remains of at least three species of

swans in North America: *Cygnus buccinator* (the trumpeter swan), *Cygnus columbianus* (the tundra swan), and *Cygnus paloregonus* (the purported ancestor of the mute swan). These fossil remains were found in geological deposits in Idaho and Oregon (Shufeldt 1913, Brodkorb 1964, Wetmore 1959) dating to the Pleistocene epoch, a period extending from 11,000 to 1.8 million years ago. Trumpeter and tundra swans survive as members of the modern North American avifauna while *paloregonus* became extinct. Whatever the relationship of *paloregonus* to modern-day swans—and Ciaran *et al.* (1997) have suggested that in some physical features it more closely resembled the mute swan than either the trumpeter or the tundra—it differed significantly enough for authorities to describe it as a distinct species. Even if there was (and there isn't) clear and indisputable evidence that *paloregonus* was synonymous with *olor*, thus possibly representing an early incursion of a population of *Cygnus olor* into North America that subsequently became extinct, that evidence would not obviate the fact that all current populations of the mute swan in North America are derived from introduced stocks that were released or escaped and eventually established feral populations. Therefore, new section 703(b)(2)(B) precludes the mute swan from being considered a native species.

Historical Illustrations: Seven of the 23 illustrations in Harriott's (1590) report on the region now known as Pamlico Sound, North Carolina, depict waterfowl (ducks, geese, or swans) in the background, either in flight or on the water. Only one of the plates depicts anything remotely resembling a swan, and it cannot be assigned with confidence to a particular species. The only text reference to swans is the statement that "in winter great store of swannes and geese" provided an abundant source of food, suggesting that the swans depicted are more likely tundra swans, a common winter inhabitant of the region. Similarly, little credence can be placed in the supposed depiction of mute swans in a Currier & Ives print. Illustrators and publishers of the late 1900th century frequently portrayed fanciful depictions of birds that bore little resemblance to reality. Commercial artwork of the period often pictured the species with which recent European immigrants had been familiar in their native land. Nonnative birds were often inserted in the foreground or background of American landscapes. We place much greater significance in the fact that neither Alexander Wilson

(1808–1814) nor John James Audubon (1827–1839)—the two most renowned and respected American wildlife artists and naturalists of the 19th century in America—depicted or described the mute swan in their seminal works on the birds of North America.

What Are the Bird Species Not Protected by the MBTA?

We have tried to make the following list as comprehensive as possible by including all non-native, human-assisted species that belong to any of the families referred to in the treaties and whose occurrence(s) in the United States and its territories have been documented in the scientific literature. It is not, however, an exhaustive list of all the non-native species that could potentially appear in the United States or its territories as a result of human assistance. New species of non-native birds are being reported annually in the United States, and it is impossible to predict which species might appear in the near future.

The 113 species on this draft list are arranged by family according to the American Ornithologists' Union (1998, as amended by Banks *et al.* 2003). Within families, species are arranged alphabetically by scientific name. Common and scientific names follow Monroe and Sibley (1993). For each species, we indicate—for informational purposes only—its status as an introduced species in the United States or its territories (indicated by numbers corresponding to the eight status categories described above):

Family ANATIDAE

- Aix galericulata*, Mandarin Duck (3, 4)
- Alopochen aegyptiacus*, Egyptian Goose (4)
- Anas hottentota*, Hottentot Teal (5)
- Anas luzonica*, Philippine Duck (5)
- Anser anser*, Graylag Goose (4)
- Anser anser anser*, Domestic Goose (4)
- Anser cygnoides*, Swan Goose (4)
- Anser indicus*, Bar-headed Goose (4)
- Branta ruficollis*, Red-breasted Goose (4)
- Callonetta leucophrys*, Ringed Teal (4)
- Chenonetta jubata*, Maned Duck (6)
- Coscoroba coscoroba*, Coscoroba Swan (5)
- Cygnus atratus*, Black Swan (4)
- Cygnus melanocoryphus*, Black-necked Swan (5)
- Cygnus olor*, Mute Swan (1, 3, 4)
- Dendrocygna viduata*, White-faced Whistling-Duck (5)
- Neochen jubata*, Orinoco Goose (5)
- Netta peposaca*, Rosy-billed Pochard (5)
- Netta rufina*, Red-crested Pochard (4)
- Tadorna ferruginea*, Ruddy Shelduck (4)
- Tadorna tadorna*, Common Shelduck (4)

Family PELECANIDAE

Pelecanus onocrotalis, Great White Pelican (5)

Family PHALACROCORACIDAE

Phalacrocorax gaimardi, Red-legged Cormorant (8)

Family CICONIIDAE

Ciconia abdimii, Abdim's Stork (5)
Ciconia ciconia, White Stork (5)
Ciconia episcopus, Woolly-necked Stork (5)
Ephippiorhynchus asiaticus, Black-necked Stork (5)

Family CATHARTIDAE

Sarcorampus papa, King Vulture (5)

Family PHOENICOPTERIDAE

Phoenicopterus chilensis, Chilean Flamingo (4)
Phoenicopterus minor, Lesser Flamingo (5)

Family ACCIPITRIDAE

Buteo polyosoma, Red-backed Hawk (5)
Buteogallus urubitinga, Great Black-Hawk (5)
Gyps sp., Griffon-type Old World vulture (5)

Family FALCONIDAE

Falco biarmicus, Lanner Falcon (7)
Falco cherrug, Saker Falcon (7)
Falco pelegrinoides, Barbary Falcon (7)

Family RALLIDAE

Aramides cajanea, Gray-necked Wood-Rail (5)

Family GRUIIDAE

Balearica pavonina, Black Crowned-Crane (5)
Balearica regulorum, Gray Crowned-Crane (5)
Grus antigone, Sarus Crane (5)

Family CHARADRIIDAE

Vanellus chilensis, Southern Lapwing (5)

Family LARIDAE

Larus novaehollandiae, Silver Gull (5)

Family COLUMBIDAE

Caloenas nicobarica, Nicobar Pigeon (6)
Chalcophaps indica, Emerald Dove (6)
Columba livia, Rock Pigeon (1, 4)
Columba palumbus, Common Wood-Pigeon (6)
Gallicolumba luzonica, Luzon Bleeding-heart (6)
Geopelia cuneata, Diamond Dove (5)
Geopelia humeralis, Bar-shouldered Dove (6)
Geopelia striata, Zebra Dove (1)
Geophaps lophotes, Crested Pigeon (6)
Geophaps plumifera, Spinifex Pigeon (6)

Geophaps smithii, Partridge Pigeon (6)
Leucosarcia melanoleuca, Wonga Pigeon (6)

Phaps chalcoptera, Common Bronzewing (6)

Starnoenas cyanocephala, Blue-headed Quail-Dove (6)

Streptopelia bitorquata, Island Collared-Dove (1, 6)

Streptopelia chinensis, Spotted Dove (1, 3)

Streptopelia decaocto, Eurasian Collared-Dove (1, 3)

Streptopelia risoria, Ringed Turtle-Dove (1, 2, 4)

Family STRIGIDAE

Pulsatrix perspicillata, Spectacled Owl (5)

Family TROCHILIDAE

Anthracothorax nigricollis, Black-throated Mango (8)

Family CORVIDAE

Callocitta colliei, Black-throated Magpie-Jay (5)
Corvus corone, Carrion Crow (5)
Corvus splendens, House Crow (5)
Cyanocorax caeruleus, Azure Jay (5)
Cyanocorax sanblasianus, San Blas Jay (8)
Garrulus glandarius, Eurasian Jay (5)
Urocissa erythrorhyncha, Blue Magpie (6)

Family ALAUDIDAE

Alauda japonica, Japanese Skylark (6)
Lullula arborea, Wood Lark (8)
Melanocorypha calandra, Calandra Lark (5)
Melanocorypha mongolica, Mongolian Lark (8)

Family PARIDAE

Parus caeruleus, Blue Tit (5)
Parus major, Great Tit (5, 8)
Parus varius, Varied Tit (2)

Family CINCLIDAE

Cinclus cinclus, White-throated Dipper (8)

Family SYLVIIDAE

Cettia diphone, Japanese Bush-Warbler (1)
Sylvia atricapilla, Blackcap (8)

Family TURDIDAE

Copsychus malbaricus, White-rumped Shama (1)
Copsychus saularis, Oriental Magpie-Robin (6)
Erithacus rubecula, European Robin (8)
Luscinia akahige, Japanese Robin (8)
Luscinia komadori, Ryukyu Robin (8)
Luscinia megarhynchos, European Nightingale (8)
Turdus philomelos, Song Thrush (8)

Family PRUNELLIDAE

Prunella modularis, Dunnock (8)

Family THRAUPIDAE

Piranga rubriceps, Red-hooded Tanager (8)
Thraupis episcopus, Blue-gray Tanager (2)

Family EMBERIZIDAE

Emberiza citrinella, Yellowhammer (8)
Gubernatrix cristata, Yellow Cardinal (6)
Loxigilla violacea, Greater Antillean Bullfinch (5)
Melopyrrha nigra, Cuban Bullfinch (5)
Paroaria capitata, Yellow-billed Cardinal (1)
Paroaria coronata, Red-crested Cardinal (1)
Paroaria dominicana, Red-cowled Cardinal (6)
Paroaria gularis, Red-capped Cardinal (6)
Sicalis flaveola, Saffron Finch (1, 5)
Tiaris canora, Cuban Grassquit (5)

Family CARDINALIDAE

Passerina leclacherii, Orange-breasted Bunting (5)

Family ICTERIDAE

Gymnostinops montezuma, Montezuma Oropendola (5)
Icterus icterus, Troupial. (1, 5)
Icterus pectoralis, Spot-breasted Oriole (1)
Leistes militaris, Red-breasted Blackbird (6)

Family FRINGILLIDAE

Carduelis cannabina, Eurasian Linnet (5, 8)
Carduelis carduelis, European Goldfinch (2, 4)
Carduelis chloris, European Greenfinch (5, 8)
Carduelis cucullata, Red Siskin (1)
Carduelis magellanica, Hooded Siskin (8)
Loxia pypsittacus, Parrot Crossbill (8)
Serinus canaria, Common Canary (1, 4)
Serinus leucopygius, White-rumped Seedeater (6)
Serinus mozambicus, Yellow-fronted Canary (1)

The MBTA also does not apply to many other bird species, including (1) nonnative species that have not been introduced into the U.S. or its territories, and (2) species (native or nonnative) that belong to the families not referred to in any of the four treaties underlying the MBTA. The second category includes the Cracidae (chachalacas), Phasianidae (grouse, ptarmigan, and turkeys), Odontophoridae (New World quail), Burhinidae (thick-knees), Glareolidae

(pratincoles), Pteroclididae (sandgrouse), Psittacidae (parrots), Todidae (todies), Dicruridae (drongos), Meliphagidae (honeyeaters), Monarchidae (monarchs), Pycnonotidae (bulbuls), Sylviinae (Old World warblers, except as listed in Russian treaty), Muscicapidae (Old World flycatchers, except as listed in Russian treaty), Timaliidae (wrentits), Zosteropidae (white-eyes), Sturnidae (starlings, except as listed in Japanese treaty), Coerebidae (bananaquits), Drepanidinae (Hawaiian honeycreepers), Passeridae (Old World sparrows, including house or English sparrow), Ploceidae (weavers), and Estrildidae (estrildid finches), as well as numerous other families not represented in the United States or its territories.

Author

John L. Trapp, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Mail Stop 4501 North Fairfax Drive, Arlington, VA 22203.

References Cited

- American Ornithologists' Union. 1931. Check-list of North American birds. 4th edition.
- American Ornithologists' Union. 1957. Check-list of North American birds. 5th edition. Baltimore, Maryland. 691 pp.
- American Ornithologists' Union. 1983. Check-list of North American birds: the species of birds of North America from the Arctic through Panama, including the West Indies and Hawaiian Islands. 6th edition. 877 pp.
- American Ornithologists' Union. 1998. Check-list of North American birds: the species of birds of North America from the Arctic through Panama, including the West Indies and Hawaiian Islands. 7th edition. Washington, DC 829 pp.
- Banks, R. C., C. Cicero, J. L. Dunn, A. W. Kratter, P. C. Rasmussen, J. V. Remsen Jr., J. D. Rising, and D. F. Stotz. 2003. Forty-fourth supplement to the American Ornithologists' Union Check-list of North American birds. *Auk* 120:923–931.
- Bevier, L. R. (ed.). 1994. The atlas of breeding birds of Connecticut. Connecticut Geological and Natural History Survey Bulletin 113, 459 pp.
- Brewer, R., G. A. McPeak, and R. J. Adams Jr. (eds.). 1991. The atlas of breeding birds of Michigan. Michigan State University Press, East Lansing. 594 pp.
- Brodkorb, P. 1964. Catalogue of fossil birds. Part 2 (Anseriformes through Galliformes). Bulletin of the Florida State Museum Biological Sciences 8:195–335.
- Bull, J. 1974. Birds of New York state. American Museum of Natural History and Doubleday Natural History Press, Garden City. 655 pp.
- Bump, G. 1941. The introduction and transplantation of game birds and mammals into the state of New York. Transactions of the North American Wildlife Conference 5:409–420.
- Castrale, J. S., E. M. Hopkins, and C. E. Keller (eds.). Atlas of breeding birds of Indiana. Indiana Department of Natural Resources Division of Fish and Wildlife. 388 pp.
- Ciaranca, M. A., C. C. Allin, and G. S. Jones. 1997. Mute Swan (*Cygnus olor*). Birds of North America 273 (A. Poole and F. Gill, eds.), 28 pp.
- Cooke, M. T., and P. Knappen. 1941. Some birds naturalized in North America. Transactions of the North American Wildlife Conference 5:176–183.
- Crosby, M. S. 1922. Mute swans on the Hudson. *Auk* 39:100.
- del Hoyo, J., A. Elliot, and J. Sargatal (eds.). 1992. Handbook of the birds of the world. Volume 1. Ostrich to ducks. Lynx Editions. 696 pp.
- Forbush, Edward Howe. 1916. A history of the game birds, wild-fowl, and shore birds of Massachusetts and adjacent states. Including those used for food which have disappeared since the settlement of the country, and those which are now hunted for food or sport, with observations on their former abundance and recent decrease in numbers; also the means for conserving those still in existence. 2nd edition. Massachusetts State Board of Agriculture, Boston. 636 pp.
- Foss, C. R. (ed.). 1994. Atlas of breeding birds in New Hampshire. Audubon Society of New Hampshire, Dover. 414 pp.
- Gilchrest, W. T. 2004 (April 2). Introduction of the Migratory Bird Treaty Reform Act of 2004: March 31, 2004. Speech of Hon. Wayne T. Gilchrest (Maryland) in the House of Representatives on April 1, 2004. Congressional Record—Extensions of Remarks 108:E510. Available online at <http://thomas.loc.gov/home/r108query.html>.
- Gilligan, J., D. Rogers, M. Smith, and A. Contreras. 1994. Birds of Oregon: status and distribution. Cinclus Publication, McMinnville, Oregon. 330 pp.
- Harriot, T. 1590. A brief and true report of the new found land of Virginia. An unabridged 1972 republication of Theodor deBry's English-language edition, with new Introduction by Paul Hulton. Dover Publications, New York. 91 pp.
- Hess, G. K., R. L. West, M. V. Barnhill, and L. M. Fleming. 2000. Birds of Delaware. University of Pittsburgh Press. 635 pp.
- Job, Herbert K. 1915. Propagation of wild birds: a manual of practical methods of propagation of quails, grouse, wild turkey, doves, and waterfowl in America, and of attracting and increasing wild birds in general, including song-birds. Doubleday, Page, & Company, Garden City, New York.
- Johnsgard, P. A. 1975. Waterfowl of North America. Indiana University Press, Bloomington. 575 pp.
- Kaine, T. (ed.). 1987. Virginia's birdlife: an annotated checklist. 2nd edition. Virginia Society of Ornithology.
- Keller, C. E., S. A. Keller, and T. C. Keller. 1986. Indiana birds and their haunts. 2nd edition. Indiana University Press, Bloomington. 206 pp.
- Kleen, V. 1998. Illinois breeding bird atlas maps. Illinois Department of Natural Resources. <http://www.inhs.uiuc.edu/chf/pub/ifwis/maps/>.
- Kortright, F. H. 1942. The ducks, geese, and swans of North America. American Wildlife Institute, Washington, DC 476 pp.
- Long, J. L. 1981. Introduced birds of the world: the worldwide history, distribution, and influence of birds introduced to new environments. Universe Books, New York. 528 pp.
- Marshall, D. B., M. G. Hunter, and A. L. Contreras. 2003. Birds of Oregon: a general reference. Oregon State University, Corvallis. 768 pp.
- Monroe, B. L., Jr., and C. G. Sibley. 1993. A world checklist of birds. Yale University Press, New Haven.
- Palmer, R. S. (ed.). 1976. Birds of North America. Volume 3. Waterfowl (Part 2). Yale University Press, New Haven.
- Peterjohn, B. G., and D. L. Rice. 1991. The Ohio breeding bird atlas. Ohio Department of Natural Resources Division of Natural Areas and Preserves. 416 pp.
- Peters, J. L. 1931. Check-list of birds of the world. Volume I. Harvard University Press, Cambridge. 345 pp.
- Reese, J. G. 1969. Mute swan breeding in Talbot County, Maryland. *Maryland Birdlife* 25:14–16.
- Reese, J. G. 1975. Productivity and management of feral mute swans in Chesapeake Bay. *Journal of Wildlife Management* 39:280–286.
- Robbins, C. S. (Ed.). 1996. Atlas of the breeding birds of Maryland and the District of Columbia. University of Pittsburgh Press. 479 pp.
- Robbins, S. D., Jr. 1991. Wisconsin birdlife: population & distribution, past & present. University of Wisconsin Press, Madison. 702 pp.

Scott, P., and the Wildfowl Trust 1972. The swans. Houghton Mifflin Company, Boston. 242 pp.

Shufeldt, R. W. 1913. Review of the fossil fauna of the desert region of Oregon, with a description of additional material collected there. Bulletin of the American Museum of Natural History 32:123–178.

Sibley, C. G., and B. L. Monroe Jr. 1990. Distribution and taxonomy of birds of the world. Yale University Press. 1111 pp.

U.S. House of Representatives (Committee on Resources). 2003 (December 16). Oversight field hearing on exotic bird species and the Migratory Bird Treaty Act. Subcommittee on Fisheries Conservation, Wildlife, and Oceans. Available online at http://resourcescommittee.house.gov/archives/108/fewo/12_16_03.htm.

U.S. House of Representatives (Committee on Resources). 2004 (June 3). Exclusion of nonnative species from Migratory Bird Treaty Act; Conservation of Neotropical Migratory Birds. House Report 108–520 [To accompany H.R. 4114]. 14 pp. Available online at <http://thomas.loc.gov/cp108/cp108query.html>.

U.S. Senate (Committee on Environment and Public Works). 2004 (August 25). Migratory Bird Treaty Reform Act of 2004. Senate Report 108–313 [To accompany S. 2547]. 10 pp. Available online at <http://thomas.loc.gov/cp108/cp108query.html>.

Urner, C. A. 1932. Mute swan in New Jersey. Auk 49:213.

Veit, R. R., and W. R. Petersen. 1993. Birds of Massachusetts. Massachusetts Audubon Society. 514 pp.

Wetmore, A. 1959. Birds of the Pleistocene in North America. Smithsonian Miscellaneous Collections 138, 26 pp.

Willey, C. H., and B. F. Halla. 1972. Mute swans of Rhode Island. Rhode Island Department of Natural Resources Division of Fish and Wildlife, Wildlife Pamphlet 8.

Wilmore, S. B. 1974. Swans of the world. Taplinger Publishing Company, New York. 229 pp.

Zeranski, J. D., and T. R. Baptist. 1990. Connecticut birds. University Press of New England, Hanover.

Other Sources

A list of other sources used to compile this list is available upon request from any of the **ADDRESSES** listed above.

Public Comments Invited

We invite interested parties to submit written comments or suggestions regarding the draft list of bird species to which the MBTA does not apply by any

one of the means identified in the **ADDRESSES** section. Duplicate submissions are discouraged. The complete file for this notice will be available for public inspection during normal business hours, by appointment, at the location identified in the **ADDRESSES** section.

E-mail comments should be submitted as an ASCII file with Nonnative Birds in the subject line. Avoid the use of special characters and any form of encryption.

While all comments will be considered, we encourage commentators to focus on the following questions:

(1) Do the four criteria used to identify bird species to which the MBTA does not apply accurately reflect the language and intention of the MBTA? If not, what changes would you recommend?

(2) Have we included any species that doesn't meet each of the four criteria? Please be specific, and provide as much detail as possible.

(3) Have we omitted any species that meets each of the four criteria?

(4) Have we accurately depicted the introduced status of each species?

Following review and consideration of the comments, we will publish a final list in the **Federal Register**.

Dated: December 23, 2004.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–55 Filed 1–3–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–HY–P; AA–6710–A, AA–6710–B, AA–6710–A2, AA–6710–B2, ALA–2]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act, will be issued to Unga Corporation, for lands in Tps. 57 and 58 S., R. 74 W., SM; Tps. 56 and 57 S., R. 75 W., SM; Tps. 57 and 58 S., R. 76 W., SM; located in the vicinity of Unga, Alaska, containing 14,565.96 acres. Notice of the decision will also be published four times in the *Dutch Harbor Fisherman*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until February 3, 2005, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT:

Renee Fencel by phone at (907) 271–5067, or by e-mail at Renee_Fencel@ak.blm.gov.

Renee Fencel,

Land Law Examiner, Branch of Preparation & Resolution.

[FR Doc. 05–11 Filed 1–3–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW151134]

Notice of Competitive Coal Lease Sale Reoffer, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale reoffer.

SUMMARY: Notice is hereby given that certain coal resources in the West Roundup Tract described below in Campbell County, WY, will be reoffered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale reoffer will be held at 10 a.m., on Wednesday, February 16, 2005. Sealed bids must be submitted on or before 4 p.m., on Tuesday, February 15, 2005.

ADDRESSES: The lease sale reoffer will be held in the First Floor Conference Room (Room 107), of the Bureau of Land Management (BLM) Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003. Sealed bids must be submitted to the Cashier, BLM Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, or Robert Janssen, Coal Coordinator, at 307–775–6258, and 307–775–6206, respectively.