DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD10

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Ployer

AGENCY: Fish and Wildlife Service,

Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to designate 28 areas along the coast of California, Oregon, and Washington as critical habitat for the Pacific coast vertebrate population segment of the western snowy plover (Charadrius alexandrinus nivosus). This small shorebird is listed as a threatened species under the Endangered Species Act of 1973, as amended (Act). Critical habitat designation would provide additional protection under section 7 of the Act with regard to activities that require Federal agency action. As required by section 4 of the Act, the Service will consider economic and other relevant impacts prior to making a final decision on the size and configuration of critical

DATES: Comments from all interested parties must be received by May 31, 1995. Public hearing requests must be received by April 17, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to Joel Medlin, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1803, Sacramento, CA 95825–1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Karen J. Miller, Sacramento Field Office (see ADDRESSES section) telephone 916/979–2725, facsimile 916/979–2723.

SUPPLEMENTARY INFORMATION:

Background

Previous Federal Actions

On March 24, 1988, the Service received a petition from Dr. J.P. Myers of the National Audubon Society to list the Pacific coast population of the western snowy plover as a threatened species under the Act. On November 14, 1988, the Service published a 90-day petition finding (53 FR 45788) that substantial information had been

presented indicating the requested action may be warranted. At that time, the Service acknowledged that questions pertaining to the demarcation of the subspecies and significance of interchange between coastal and interior stocks of the subspecies remained to be answered. Public comments were requested on the status of the coastal population of the western snowy plover. A status review of the entire subspecies had been in progress since the Service's December 30, 1982, Vertebrate Notice of Review (47 FR 58454). In that notice, as in subsequent notices of review (September 18, 1985 (50 FR 37958); January 6, 1989 (54 FR 554)), the western snowy plover was included as a category 2 candidate. Category 2 encompasses species for which information now in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules. The public comment period on the petition was closed on July 11, 1989 (54 FR 26811, June 26, 1989).

In September 1989, the Service completed a status report on the western snowy plover. Based on the best scientific and commercial data available, including comments submitted during the status review, the Service made a 12-month petition finding on June 25, 1990, that the petitioned action was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act.

On January 14, 1992 (57 FR 1443), the Service published a proposal to list the coastal population of the western snowy plover as a threatened species. After a review of the best scientific and commercial available and all comments received in response to the proposed rule, the Service published a final rule to list the coastal population of the western snowy plover as a threatened species on March 5, 1993 (58 FR 12864), and thereby activated the protections applicable to listed species. The Service did not propose to designate critical habitat for the snowy plover within the proposed or final listing rulemaking because the Service found that critical habitat was not then determinable. The Service now has the information needed for a critical habitat proposal.

Ecological Considerations

The western snowy plover, which is one of twelve subspecies of the snowy plover (Rittinghaus 1961 in Jacobs 1986), is a small, pale colored shorebird with dark patches on either side of the upper breast. The species was first described in 1758 by Linnaeus (American Ornithologists' Union 1957). For a complete discussion of the ecology and life history of this subspecies, see the Service's March 5, 1993, final rule listing the coastal population of the western snowy plover as a threatened species (58 FR 12864).

The Pacific coast population of the western snowy plover breeds in loose colonies primarily on coastal beaches from southern Washington to southern Baja California, Mexico. On the Pacific coast, larger concentrations of breeding birds occur in the south than in the north, suggesting that the center of the plovers' coastal distribution lies closer to the southern boundary of California (Page and Stenzel 1981). In Baja California, Mexico, snowy plovers are distributed across 28 sites, with concentrations at six coastal lakes (Dra. Graciela De La Graza Garcia, Director General of Conservation Ecology and Natural Resources, United States of Mexico, in litt., 1992). Other less common nesting habitat includes salt pans, coastal dredged spoil disposal sites, dry salt ponds, and salt pond levees and islands (Widrig 1980, Wilson 1980, Page and Stenzel 1981). Sand spits, dune-backed beaches, unvegetated beach strands, open areas around estuaries, and beaches at river mouths are the preferred coastal habitats for nesting (Stenzel et al. 1981, Wilson 1980).

Based on the most recent surveys, a total of 28 snowy plover breeding sites or areas currently occur on the Pacific Coast of the United States. Two sites occur in southern Washington-one at Leadbetter Point, in Willapa Bay (Widrig 1980), and the other at Damon Point, in Grays Harbor (Anthony 1985). In Oregon, nesting birds were recorded in 6 locations in 1990 with 3 sites (Bayocean Spit, North Spit Coos Bay and spoils, and Bandon State Park-Floras Lake) supporting 81 percent of the total coastal nesting population (Oregon Department of Fish and Wildlife, unpubl. data, 1991). A total of 20 plover breeding areas currently occur in coastal California (Page et al. 1991). Eight areas support 78 percent of the California coastal breeding population: San Francisco Bay, Monterey Bay, Morro Bay, the Callendar-Mussel Rock Dunes area, the Point Sal to Point Conception area, the Oxnard lowland, Santa Rosa Island, and San Nicolas Island (Page et al. 1991).

The coastal population of the western snowy plover consists of both resident and migratory birds. Some birds winter in the same areas used for breeding (Warriner *et al.* 1986, Wilson-Jacobs,