



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



DEC 31 2012

In Reply Refer To:  
FWS/AES/DCC/BL/053192

Mr. Dominick A. DellaSala, Ph.D.  
Society for Conservation Biology  
1017 O Street N.W.  
Washington, D.C. 20001-4229

Dear Mr. DellaSala:

This letter is in response to your petition dated July 5, 2012, which requests the U.S. Fish and Wildlife Service and National Marine Fisheries Service to undertake rulemaking to define the phrase “destruction or adverse modification” of critical habitat and to improve the regulations governing the designation process for critical habitat. Your petition was received on July 6, 2012.

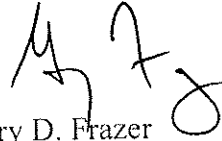
The matters addressed in your letter are currently under review as part of a broader ongoing effort. As you may be aware, on January 18, 2011, the President issued Executive Order 12563, Improving Regulation and Regulatory Review. The Executive Order directed agencies to develop and submit a preliminary plan within 120 days that will explain how they will review existing significant regulations and identify regulations that can be made more effective or less burdensome in achieving regulatory objectives.

On February 25, 2011, the Department of the Interior published a request for information notice in the Federal Register soliciting public information regarding the President’s Executive Order [76 FR 10526]. Subsequently, DOI completed its preliminary plan for retrospective regulatory review. In that 2-year plan, DOI identified the broad category of Endangered Species Act (ESA) review and more specifically review of ESA implementing regulations and policies to improve conservation effectiveness, reduce administrative burden, enhance clarity and consistency for impacted stakeholders and agency staff, and encourage partnerships, innovation, and cooperation. Among the recommendations included in the preliminary plan, the following two specific recommendations were made that pertain to your petition:

- 1) Review and revise the process for designating critical habitat to design a more efficient, defensible, and consistent process.
- 2) Clarify the definition of the phrase “destruction or adverse modification” of critical habitat, which is used to determine what actions can and cannot be conducted in critical habitat.

In conjunction with the Department of the Interior, we have initiated the above regulatory reviews and we are working to have proposed regulations available for the public's review and comment in the near future. Your suggestions will be taken into account along with other public comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Frazer', written in a cursive style.

Gary D. Frazer  
Assistant Director,  
Endangered Species