

Appendix F

**Letter from the Pacific Seabird Group to
U.S. Fish and Wildlife Service and
Department of Fish and Game**

**Advance Notice of Petition to list
Xantus's Murrelets as Endangered
March 25, 1994**

**Pacific
Seabird
Group**



DEDICATED TO THE STUDY AND CONSERVATION OF PACIFIC SEABIRDS AND THEIR ENVIRONMENT

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March 25, 1994

Mollie Beattie, Director
U.S. Fish & Wildlife Service
634 Arlington Square
Washington DC 20240

Boyd Gibbons, Director
California Department of Fish & Game
P.O. Box 2090
Sacramento, California 94244-2090

Re: Advance Notice of Petition to List Xantus' Murrelet as Endangered

Dear Director Beattie and Director Gibbons:

On behalf of the Pacific Seabird Group (PSG), we wish to advise you that we plan to petition the U.S. Fish & Wildlife Service (FWS) within the next few months to list Xantus' Murrelet (*Synthliboramphus hypoleucus*) as an endangered species pursuant to § 4(b)(3) of the Endangered Species Act^{1/} and 50 C.F.R. § 424.14 (1992). FWS currently classifies this species as a category 2 endangered species.^{2/} PSG may also petition the California Department of Fish & Game to list this species as endangered under the laws and regulations of the State of California. The purpose of this letter is to invite you and interested organizations to participate in our efforts to document and assess the status of and threats to this species.

^{1/} 16 U.S.C. § 1533(b)(3) (1988).

^{2/} 56 Fed. Reg. 58804-12 (November 21, 1991).

PSG is an international organization that was founded in 1972 to promote knowledge, study and conservation of Pacific seabirds. PSG draws its members from the entire Pacific Basin, including Mexico, Canada, Japan, China, Australia, New Zealand, French Polynesia and Russia. Among PSG's members are biologists who have research interests in Pacific seabirds, state and federal officials who manage seabirds and the marine environment, and individuals with interests in marine conservation.

In recent years, PSG has become increasingly concerned regarding the status and vulnerability of the Xantus' Murrelet. In 1991, the FWS resurveyed many breeding colonies in the Channel Islands, California. In the draft final report (Carter et al., 1992), FWS estimated a total of 1,780 breeding birds in California, 95% of which nest on Santa Barbara Island. PSG hopes to facilitate the investigation of the status of nesting locales on other California Channel Islands during 1994. In addition, other data collected by the University of California and National Park Service in the 1970s and 1980s has indicated poor reproductive success for many years and significant mortality by avian and mammalian predators. Close proximity to offshore oil platforms, nearby tanker traffic, and substantial military activity in the region, places the Xantus' Murrelet in a tenuous position for long-term viability. PSG hopes to facilitate additional investigations of the status of nesting colonies on other California Channel Islands and in Baja California in the future. With a better understanding of its current status, PSG hopes to work with various agencies to develop appropriate actions to protect and study this little-known rare alcid species. PSG and the International Council for Bird Preservation have already asked Congress to appropriate funds to remove alien predators from Isla Clarión and North Coronado Island, Mexico, to allow Xantus' Murrelets to resume normal breeding there.

PSG formed a committee of interested and knowledgeable biologists and resource managers in 1992 to assess available information on this species and to evaluate existing and potential threats. The committee met on several occasions to discuss this issue during 1992-1994. The result of their deliberations was the conclusion that available data warrants concern as to whether the species may be in danger of extinction within the foreseeable future. The committee recommended to the Executive Council of PSG to petition the U.S. Fish and Wildlife Service to elevate Xantus' Murrelet from its current category 2 status to either Threatened or Endangered, as appropriate.

On 28 January 1994 PSG's Executive Council approved a motion to proceed with the petition, and directed the Xantus' Murrelet Technical Committee to prepare the necessary documentation. As part of this process we are notifying agencies and organizations with jurisdictions, activities, or interests within the Southern

California Bight of our intent, and soliciting their input and participation in the process.

To this end the Xantus' Murrelet Technical Committee of PSG is convening a meeting from 9:00 a.m. to 4:00 p.m. on Wednesday, May 18, 1994 to consider any additional information and answer questions regarding the status of this species. The meeting will be held at the Western Foundation of Vertebrate Zoology, 439 Calle San Pablo, Camarillo, California 93012. The Foundation telephone numbers are (805) 388-9944 Voice, (805) 388-8663 Fax.

If a representative from your organization would like to attend this meeting or contribute information, please contact William T. Everett, Coordinator, Xantus' Murrelet Technical Committee, at the Western Foundation.

Because we agree with Department of the Interior Secretary Babbitt that the best means of avoiding "train wrecks" that have characterized the implementation of the Endangered Species Act is to have better information, we have initiated this cooperative effort at this early stage. We hope this process will ultimately result in a secure future for this rare seabird species and unique public resource, and we look forward to meeting you or your representative at the 18 May meeting at the Western Foundation.

Sincerely,

John Piatt CSM

John Piatt
Craig S. Harrison

cc: The Nature Conservancy
National Park Service, Channel Islands National Park
National Oceanic and Atmospheric Administration,
Channel Islands National Marine Sanctuary
United States Coast Guard
National Marine Fisheries Service
Minerals Management Service
Santa Catalina Island Conservancy
United States Navy, Point Mugu Naval Weapons Station
United States Navy, Naval Air Station North Island
Point Reyes Bird Observatory
National Biological Survey
International Council for Bird Preservation - U.S. Section

Appendix G

**Letter from the American Ornithologists' Union
to
U.S. Fish and Wildlife Service and
Department of Ecology and Utilization of
Natural Resources, Mexico**

**Protection of Seabirds on Mexican Islands
August 25, 1993**

THE AMERICAN ORNITHOLOGISTS' UNION

FOUNDED 26 SEPTEMBER 1883

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25 August 1993

Dr. Herbert Raffaele
U.S. Fish and Wildlife Service
1849 C Street, NW
ms 860 Arlington Square
Washington, DC 20240

Dear Dr. Raffaele:

The American Ornithologists' Union (AOU) is the largest and oldest organization of professional ornithologists in the United States, with over 4200 members from all states and from 66 countries around the world. Based on sound science, this society takes positions on conservation issues throughout the Americas that potentially affect the well-being of bird populations.

At our 111th Stated Meeting in Fairbanks, Alaska this past June (1993), the AOU passed the enclosed resolution urging the U. S. Fish and Wildlife Service and Mexico's Departamento de la Fauna Silvestre to take measures to restore the natural biodiversity to several islands off the western coast of Mexico, and to remove alien predators that threaten the well-being of several seabird species. These measures would be in accord with the Western Hemisphere Convention, to which both the U. S. and Mexico are signatories. This problem presents an opportunity for the U.S. and Mexico to cooperate in implementing the mandate of the Western Hemisphere Convention.

On behalf of the AOU, I hope you will review this resolution and consider what action you might take within the U.S. Fish and Wildlife Service International Division to initiate restoration of these islands to conditions that promote the welfare of affected seabird species.

Sincerely,

Brina Kessel
President

enclosure

FUTURE MEETINGS

AOU
8-13 June 1993
Fairbanks, Alaska

AOU-COS-WCS
21-26 June 1994
Missoula, Montana

IOC
21-27 August 1994
Vienna, Austria

AOU
13-20 August 1995
Cincinnati, Ohio

THE AMERICAN ORNITHOLOGISTS' UNION

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25 August 1993

Dr. Exequiel Excurra, Director-General
Ecology and Utilization of Natural Resources
CEDESOL
Rio Elba No. 20
Mexico D. F., MEXICO

Dear Dr. Excurra:

The American Ornithologists' Union (AOU) is the largest and oldest organization of professional ornithologists in the United States, with over 4200 members from all states and from 66 countries around the world. Based on sound science, this society takes positions on conservation issues throughout the Americas that potentially affect the well-being of bird populations.

At our 111th Stated Meeting in Fairbanks, Alaska this past June (1993), the AOU passed the enclosed resolution urging the U. S. Fish and Wildlife Service and Mexico's Departamento de la Fauna Silvestre to take measures to restore the natural biodiversity to several islands off the western coast of Mexico, and to remove alien predators that threaten the well-being of several seabird species. These measures would be in accord with the Western Hemisphere Convention, to which both the U. S. and Mexico are signatories. This problem presents an opportunity for the U.S. and Mexico to cooperate in implementing the mandate of the Western Hemisphere Convention.

On behalf of the AOU, I hope you will review this resolution and consider what action you might take within your agency, in cooperation with the U.S. Fish and Wildlife Service, to initiate restoration of these islands to conditions that promote the welfare of affected seabird species.

Sincerely,

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Seabird islands in Mexico

WHEREAS the governments of Mexico and the United States of America (USA) are signatories to a Migratory Bird Treaty, and

WHEREAS the USA-Mexico Migratory Bird Treaty provides that the USA and Mexico will protect migratory birds and establish refuges for migratory birds, and

WHEREAS the governments of the USA and Mexico are signatories to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (Western Hemisphere Convention), and

WHEREAS the Western Hemisphere Convention is intended to "protect and preserve in their natural habitat all species of native flora and fauna, including migratory birds, in sufficient numbers and over areas extensive enough to assure them from becoming extinct through any agency within man's control," and

WHEREAS humans have introduced rats, pigs, cats, rabbits, and other non-native species on seabird nesting islands in Mexico, and

WHEREAS each year such predators threaten the well-being of Xantus' Murrelets (*Synthliboramphus hypoleucus*) on North Coronado Island, and

WHEREAS the U.S. Fish and Wildlife Service considers the Xantus' Murrelet to be a Category 2 endangered species that may be listed as a Category 1 endangered species in the near future, and

WHEREAS introduced predators threaten the well-being of Black Storm-Petrels (*Oceanodroma melanica*) on North Coronado Island, and

WHEREAS the state of California is considering whether to list Ashy Storm-petrels (*Oceanodroma homochroa*) as a state endangered species, and

WHEREAS such predators threaten the well-being of Townsend's Shearwater (*Puffinus auricularis*) on Clarion Island, and

WHEREAS Townsend's Shearwater is an endangered species, and

WHEREAS there are sound biological, economic, and other reasons for the governments of Mexico and the USA to endeavor to prevent migratory birds from becoming endangered,

THEREFORE BE IT RESOLVED that the American Ornithologists' Union encourages the U.S. Fish and Wildlife Service and Mexico's Departamento de la Fauna Silvestre to take immediate steps to remove alien predators from North Coronado Island, Guadalupe Island, and Clarion Island, Mexico, and

THEREFORE BE IT FURTHER RESOLVED that the American Ornithologists' Union encourages the U.S. Fish and Wildlife Service and Mexico's Departamento de la Fauna Silvestre to take measures to restore the natural biodiversity of other current and former seabird breeding colonies, including Isla Salvatierra Isla Alcatraz, and Las Grandas Islas, and

THEREFORE BE IT FURTHER RESOLVED that the American Ornithologists' Union encourages the U.S. Fish and Wildlife Service and Mexico's Departamento de la Fauna Silvestre to establish a program to identify all seabird colonies in Mexico whose populations are limited by alien predators and remove the predators by the year 2000.

Appendix H

**Fish and Game Code Section 2084
Candidacy Regulations for Xantus's Murrelets**

Regulatory Language

Add Section 749.2 Incidental Take of Xantus's Murrelet (*Synthliboramphus hypoleucus*) During Candidacy Period:

Section 749.2. Incidental Take of Xantus's Murrelet (*Synthliboramphus hypoleucus*) During Candidacy Period

The commission finds that, based on current knowledge and protection, and management efforts outlined in this regulation, the level of take of Xantus's murrelet which is likely to occur during the period that this regulation is in effect will not cause jeopardy to the continued existence of the species.

(a) Take Authorization

Based upon the above findings, the commission authorizes the take of Xantus's murrelet during the candidacy period for each of the activities described below, subject to the terms and conditions specified for each activity.

(1) Night-time Disturbance (light and noise) near Breeding Colonies.

(A) Incidental take of Xantus's murrelet resulting from night-time (dusk to dawn) operation of a vessel is authorized all year outside the areas described in subsections (a)(1)(D) and (a)(1)(E).

(B) Incidental take of Xantus's murrelet resulting from night-time operation of a vessel from February 1 through July 15 within the areas described in subsections (a)(1)(D) and (a)(1)(E) is authorized only where such take occurs in compliance with each of the following restrictions:

1. the vessel is not engaged in night fishing or night diving;
2. external loud speakers on the vessel are not in use;
3. the vessel is within a designated anchorage or safe harbor from dusk to dawn, except when transiting through areas described in subsections (a)(1)(D) and (a)(1)(E); and
4. lighting on the vessel is limited to navigational lighting necessary for safe operations.

(C) Incidental take of Xantus's murrelet resulting from night-time operation of a vessel from July 16 through January 31 within the areas described in subsections (a)(1)(D) and (a)(1)(E) is authorized without the restrictions contained in subsection (a)(1)(B).

(D) Santa Barbara Island: from the mean high tide line extending 1 nm around the entire shoreline of Santa Barbara Island. Anchorages and safe harbors include Landing Cove (33° 28.9' N. lat., 119° 1.7' W. long.), and from Arch Point (33° 29.3' N. lat., 119° 1.6' W. long.) to the southernmost point of the island (33° 27.9' N. lat., 119° 2.1' W. long.).

(E) Anacapa Island: from the mean high tide line extending 1 nm around the entire shoreline of Anacapa Island. Anchorages and safe harbors include Landing Cove (34° 1' N. lat., 119° 21.6' W. long.) and Frenchy's Cove (34° 0.4' N. lat., 119° 24.4' W. long.).

(2) Ongoing Research and Monitoring.

(A) Public Agencies and Private Parties.

1. Take of Xantus's murrelet in the course of ongoing and currently permitted research and monitoring of this species by public agencies other than the

department and by private parties is authorized provided that a written, detailed project progress report describing objectives, methods (gear, sampling schedules and locations), efforts to minimize adverse effects to the species, and estimated level of take of the species shall be provided to the department's Marine Regional Manager within 60 days of this regulation becoming effective.

2. Take of Xantus's murrelet incidental to the course of marine research by public agencies other than the department and by private parties, using artificial night-lighting on vessels is authorized subject to the restrictions in subsection (a)(1).

3. At the discretion of the department, research and monitoring activities not addressed by the above procedures may receive separate authorization for take of Xantus's murrelet by the department pursuant to Fish and Game Code Section 2081.

Department of Fish and Game Contact: Regional Manager, Marine Region: 4665 Lampson Avenue, Los Alamitos, California 90720, (562) 342-7100.

(3) Additions, Modifications or Revocation.

(A) Incidental take of Xantus's murrelet from activities not addressed in this section may be authorized during the candidacy period by the commission pursuant to Fish and Game Code Section 2084 or by the department pursuant to Fish and Game Code Section 2081, on a case-by-case basis.

(B) The commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of Xantus's murrelet.

NOTE:

Authority: Sections 200, 202, 205, 240 and 2084, Fish and Game Code.

Reference: Sections 200, 202, 205, 240, 2080, 2084 and 2085, Fish and Game Code.