



## Questions and Answers: Black-Capped Vireo Delisting Proposal

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### **Q. What is the U.S. Fish and Wildlife Service proposing?**

**A.** The Service is proposing to remove the black-capped vireo from the Federal List of Endangered and Threatened Wildlife (List) because it has recovered and no longer meets the definition of endangered under the Endangered Species Act (Act). Our proposal is based on a thorough review of the available information, including the recently completed Species Status Assessment, indicating that the threats to the species have been adequately managed or reduced to the point that the species no longer requires protection under the Act.

### **Q. Why is the Service proposing to delist the black-capped vireo?**

**A.** In 2007, the Service completed a 5-year review of the black-capped vireo which recommended the species be downlisted to threatened. In 2012, we received a petition to downlist the black-capped vireo based on our 2007 recommendation. The Service used the Species Status Assessment framework to evaluate species viability and address the petition. Our analysis of the best available science indicates the primary known threats to the black-capped vireo, of habitat loss and brown-headed cowbird parasitism, have been reduced or adequately managed and the populations are stable or growing. As such, the vireo no longer meets the definition of a threatened or endangered species under the Act.

### **Q. Why did the Service list the black-capped vireo as endangered?**

**A.** The black-capped vireo was listed as endangered in 1987 primarily due to habitat loss through land use conversion, grazing and browsing by domestic livestock and native herbivores, vegetational succession, and brood parasitism by brown-headed cowbirds. At the time the species was listed there were only 350 adult birds reported within the known breeding range.

### **Q. What is the range of the black-capped vireo?**

**A.** The current distribution of the black-capped vireo includes a breeding range within central Oklahoma, Texas, the Mexican states of Coahuila, Tamaulipas, and Nuevo León, and a winter range along Mexico's western coastal states.

**Q. What is the estimated population of the black-capped vireo?**

**A.** Estimates of black-capped vireos are limited to local areas or populations within the breeding range. Due to limitations on detecting breeding habitat across this large area, there are no available rangewide estimates for the black-capped vireo. However, surveys from known breeding localities from 2009 to 2014 reported 5,244 adult males in the breeding range. Estimates of abundance are available at four well-surveyed localities (Fort Hood and Fort Sill military installations, Kerr Wildlife Management Area, and Wichita Mountains Wildlife Refuge) and one recently-surveyed area in Val Verde County, Texas. In 2013-2014, it was estimated that more than 14,000 adult male black-capped vireos were present at these locations during the breeding season.

**Q. What factors did the Service consider in deciding to propose delisting the black-capped vireo?**

**A.** Section 4(a)(1) of the Act requires the Service to determine whether a species is endangered or threatened based on one or more of the five following factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanism; or (5) other natural or man-made factors affecting its continued existence. To address these factors, the Service characterized the species' viability using the Species Status Assessment framework. This assessment used the best scientific and commercial information available to evaluate the known threats to the species, as well as identify any new threats since it was listed. A significant portion of our analysis involved conservation efforts by the Department of the Army (Fort Hood and Fort Sill), Texas Parks and Wildlife Department, Oklahoma Department of Wildlife Conservation, The Nature Conservancy of Texas, and Environmental Defense Fund. These partnerships were important in developing management and monitoring methods on public and private lands that resulted in substantial increases and documented stability in managed populations.

**Q. How do you know that there is enough habitat to support a viable black-capped vireo population?**

**A.** The availability of black-capped vireo breeding habitat was limited to the known populations and anecdotal observations at the time of listing in 1987. The documentation of numerous populations since that time has vastly increased the amount of known black-capped vireo breeding habitat across the landscape. Between 1987 and 2012 (most recent data available), reported rangeland across the black-capped vireo breeding range in the United States has increased by 17 percent. Although not all rangeland within the black-capped vireo's range is suitable breeding habitat, this trend suggests a decrease in land use activities that would harm habitat conditions. Goats, which browse on shrub foliage necessary for vireo nesting, are a significant threat to habitat and likely led to substantial habitat loss prior to the species being listed. Since listing, reported goat density in the U.S. breeding range of the black-capped vireo has declined by 47 percent. The breeding range in Mexico was previously only known from the state of Coahuila. In 2003, vireos were documented in two additional Mexican states, and a potential breeding range is estimated to be approximately two-thirds the size of the breeding

range in Texas. Additionally, estimated densities of breeding birds recorded in Mexico are up to six times higher than in the U.S., which may corroborate high population estimates (over 7,000 adult males) in a portion of Coahuila.

**Q. What are the recovery criteria for the black-capped vireo?**

**A.** According to the best available science and 20 years of repeated monitoring, the Service and our partners have reduced or adequately managed the primary threats to the black-capped vireo, populations are, healthy and stable, and the vireo has greatly expanded its range and population numbers since the 1980s. Based on a thorough review of all available information, the threats to this species have been adequately managed or reduced to the point that the species has recovered and no longer meets the definition of threatened or endangered under the Act.

Recovery plans are intended to establish goals for long-term conservation of listed species, define criteria that indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act, and provide guidance to our federal, state, and other governmental and non-governmental partners on methods to minimize threats to listed species.

The Black-capped Vireo Recovery Plan that was approved by the Service in 1991 does not have up to date recovery goals. When the Plan was approved, the prospect of complete recovery of the species was indeterminable and, therefore, an interim objective of downlisting to threatened status was used to develop recovery criteria. During the 2007 5-year review of the status of the species, it was determined that the recovery plan was outdated and did not reflect the best available information on the biology of the species and its needs. For this reason, in 2015 we assessed the species' viability using the Species Status Assessment framework. This approach allowed us to forecast future scenarios that considered the threats to the species and the condition of known localities of breeding birds. We used a 50-year timeframe to project these scenarios and evaluated future viability in each case

**Q. Did the Service consider the status of the black-capped vireo in Mexico in its decision to propose delisting the species?**

**A.** Yes, all information was considered. The black-capped vireo breeds and winters in Mexico. While research and information on the status of the species in Mexico is sparse, several relevant studies were used in the Service's assessment. Information on the breeding range in Mexico indicates three states are known to have breeding populations and a potential breeding range approximately two-thirds the size of the breeding range in Texas. Within this range, evidence suggests the known threats to the species, cowbird parasitism and habitat loss, as well as lower rates of nest predation (the primary cause of nest failure) are much lower than elsewhere in the breeding range. Additionally, research shows the density of breeding birds in Mexico to be up to six times that of locations in the United States. In the wintering range, habitat requirements for the black-capped vireo are more general. Habitat modelling has concluded that wintering areas in Mexico occur across 103,000 to 141,000 km<sup>2</sup> (39,769 to 54,440 mi<sup>2</sup>) and extend further than previous records identified at the time of listing.

**Q. What conservation actions are being undertaken that resulted in the recovery of the black-capped vireo?**

A. Partnerships with the Department of the Army, Texas Parks and Wildlife Department, Oklahoma Department of Wildlife Conservation, The Nature Conservancy of Texas, and Environmental Defense Fund have been key to the recovery of the black-capped vireo. Conservation measures implemented to reduce threats to the species include active management on public or otherwise protected lands such as prescribed fire, grazing management, and brown-headed cowbird control. Conservation programs and partnerships that address the black-capped vireo include a 37-county Safe Harbor Agreement in Texas, state and non-governmental organization cowbird control programs, private lands incentives (*e.g.*, USDA Environmental Quality Incentive Program), eight Habitat Conservation Plans, two permanently protected mitigation lands, several conservation easements, and public outreach.

**Q. Has the population of the black-capped vireo actually increased, or have more birds been discovered because it is an endangered species?**

A. In the case of the black-capped vireo increased population numbers are a result of the species being listed and additional populations being identified. Once a species is listed, there are regulatory and recovery actions undertaken to promote research and survey efforts. There have been several additional populations of black-capped vireo sought and documented largely due to its status under the Act. However, there is also evidence of population growth and enhancement at regularly monitored populations, such as those at Fort Hood and Wichita Mountains Wildlife Refuge. As a result of threats being managed, which is in part a result of the species being listed, these and other populations have made significant population gains.

**Q. How can you be sure the species is not threatened or endangered without accurate measures of its habitat or population?**

A. The Act requires the Service to use the best scientific and commercial information available when determining a species' status. By using the Species Status Assessment approach, we analyzed the best available information to characterize the species' viability in the future. While there is still limited information related to rangewide habitat and exact population estimates, we currently have much more robust information about the species than we had when it was listed in 1987. Our analysis indicates that up to 50 years in the future, the black-capped vireo will be represented across its breeding range, and the majority of known populations will continue to be resilient.

**Q. How would a delisting impact project planning and consultation?**

A. A delisting means the species would no longer have protections under the Act. Development projects and federal actions would not require coordination or consultation under the Act, thus potentially reducing time associated with consultation and permitting. The black-capped vireo would still be protected under the Migratory Bird Treaty Act, however, which prevents "taking" of migratory birds except under specific exceptions.

**Q. If the black-capped vireo is delisted, will it continue to be monitored by the Service or some other agency or group?**

A. Yes, the Service, in coordination with our partners, will develop a draft post-delisting monitoring (PDM) plan for the black-capped vireo that will guide us in monitoring the species population for a minimum of five years after it is delisted. This plan will describe monitoring methods, reporting procedures and agency responsibilities. Multiple monitoring strategies will be used in order to assure that population trends and habitat status will be captured at various time periods and scales, respectively. We expect to have the draft PDM plan available for public review prior to the decision on the final rule.

**Q. Will public lands that maintain populations of black-capped vireos stop managing habitat and controlling cowbirds if it is delisted?**

A. The Service believes that the recovery of the black-capped vireo was, in part, related to substantial efforts to manage habitat and cowbirds on both public and private lands. Our conservation partners have helped develop and implement necessary management activities that led to enhanced populations and reduced threats, particularly on public lands. We believe these important partnerships will continue as necessary in the long term. For example, two large populations occur on National Wildlife Refuge lands managed by the Service, which will continue to devote resources toward species management. Additionally, two major populations occur on Department of the Army lands (Fort Hood and Fort Sill), where habitat management is guided through existing Integrated Natural Resource Management Plans under the Sikes Act. Through the development of the PDM, we will coordinate sustainable management activities with our partners on public lands, which will also be applicable on a voluntary basis for private lands.

**Q. What happens if this rule is finalized and if post delisting monitoring yields information indicating there is a substantial threat to the black-capped vireo?**

A. If the PDM yields substantial information indicating that a threat is causing a decline in the status of the black-capped vireo, then the Service would initiate a formal status review to assess changes in threats to the species as defined in the PDM. If it is determined appropriate, then the Service would propose that the black-capped vireo be listed in accordance with section 4 of the Act. Also, depending on the scope of the threat(s), the Service could use the emergency listing provisions provided under the Act.

**Q. How do I submit comments and how will the peer review and public comments be considered?**

A. The Service is requesting comments or information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the delisting proposal. Comments must be received within 60 days, on or before February 13, 2017. You may submit comments by one of the following methods:

(1) *Electronically*: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R2-ES-2016-0110 which is the docket number for this rulemaking.

Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy*: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS – R2-ES-2016-0110; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

For additional information, contact Debra Bills, U.S. Fish and Wildlife Service, Arlington Ecological Services Field Office, 2005 Northeast Green Oaks Blvd., Suite 140, Arlington, TX 76006, by telephone 817-277-1100 or by fax 817-277-1129. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.