

CPT/HCPCS procedure codes, then each CPT/HCPCS procedure code will be billed at 100 percent of the charges established under this section.

(f) \* \* \*

(4) *Charge adjustment factors for specified CPT/HCPCS code modifiers.* Surcharges are calculated in the following manner: From the Part B component of the Medicare Standard Analytical File 5 percent Sample, the ratio of weighted average billed charges for CPT/HCPCS codes with the specified modifier to the weighted average billed charge for CPT/HCPCS codes with no charge modifier is calculated, using the frequency of procedure codes with the modifier as weights in both weighted average calculations. The resulting ratios constitute the surcharge factors for specified charge-significant CPT/HCPCS code modifiers.

(5) \* \* \*

(ii) *Charges for professional services.* Charges for the professional services of the following providers will be 100 percent of the amount that would be charged if the care had been provided by a physician:

- (A) Nurse practitioner.
- (B) Clinical nurse specialist.
- (C) Physician Assistant.
- (D) Clinical psychologist.
- (E) Clinical social worker.
- (F) Dietitian.
- (G) Clinical pharmacist.

\* \* \* \* \*

[FR Doc. E7-2391 Filed 2-12-07; 8:45 am]

BILLING CODE 8320-01-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Jollyville Plateau Salamander as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Jollyville Plateau salamander (*Eurycea tonkawae*) as endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the Jollyville Plateau salamander may be warranted. Therefore, with the publication of this notice, we are

initiating a status review to determine if listing the species is warranted. To ensure that the status review of the Jollyville Plateau salamander is comprehensive, we are soliciting information and data regarding this species.

**DATES:** The finding announced in this document was made on February 13, 2007. To be considered in the 12-month finding for this petition, comments and information should be submitted to us by April 16, 2007.

**ADDRESSES:** The complete supporting file for this finding is available for public inspection, by appointment, during normal business hours at the Austin Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758 or via electronic mail at <http://www.fws.gov/southwest/es/Library/>. The petition is available at <http://www.fws.gov/southwest/es/Library/>. Submit new information, materials, comments, or questions concerning this petition and our finding to the above address.

**FOR FURTHER INFORMATION CONTACT:** Robert Pine, Field Supervisor, Austin Ecological Services Field Office (see **ADDRESSES** section) (telephone 512/490-0057; facsimile 512/490-0974). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Public Information Solicited

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the Jollyville Plateau salamander. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the status of the Jollyville Plateau salamander. We are seeking information regarding the species' historical and current status and distribution, its biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat.

We will base our 12-month finding on a review of the best scientific and commercial information available, including all information received

during the public comment period. If you wish to comment or provide information, you may submit your comments and materials concerning this finding to the Field Supervisor, Austin Ecological Services Field Office (see **ADDRESSES** section). Please note that comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species shall be made "solely on the basis of the best scientific and commercial data available." At the conclusion of the status review, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

Our practice is to make comments, including names and home addresses of respondents, available for public review during normal business hours. Individual respondents may request that we withhold their names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

#### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we make this finding within 90 days of receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioner that we determined reliable after reviewing sources referenced in the petition and information otherwise available in our files at the time of petition review. We evaluated that information in accordance with 50 CFR 424.14(b). Our process in making this 90-day finding under section 4(b)(3)(A) of the Act and § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the “substantial information” threshold.

#### Petition

On June 13, 2005, we received a formal petition, dated June 10, 2005, from Save Our Springs Alliance (SOSA) requesting that the Jollyville Plateau salamander (*Eurycea tonkawae*) be listed as an endangered species in accordance with section 4 of the Act.

Action on this petition was precluded by court orders and settlement agreements for other listing actions that required all of our listing funds for fiscal year 2005 and a substantial portion of our listing funds for fiscal year 2006. On September 29, 2005, we received a 60-day notice of intent to sue from SOSA for failing to make a timely 90-day finding. On December 1, 2005, we sent a letter to SOSA informing them that we would not likely make a petition finding during the fiscal year of 2006 due to funding limitations. Subsequently, funding became available to act on the petition. On August 10, 2006, SOSA filed a complaint against the Service for failure to issue a 90-day petition finding under section 4 of the Act for the finding on the Jollyville Plateau salamander. In our December 11, 2006, motion for summary judgment, we informed the court that based on current funding and workload projections, we believed that we could complete a 90-day finding by February 6, 2007, and if we determined that the petition provided substantial scientific and commercial data, we could make a 12-month warranted or not warranted finding by February 6, 2008. This notice constitutes our 90-day finding for the

petition to list the Jollyville Plateau salamander.

#### Species Information

The petitioners presented sufficient, reliable information related to the taxonomic status of the Jollyville Plateau salamander. This species was first described as *Eurycea tonkawae* in the scientific journal *Herpetological Monographs* by Chippendale et al. (2000, pp. 1–48) based on morphological characteristics and genetic analysis. We found no information in our files to refute the taxonomic status of the Jollyville Plateau salamander as a species or a listable entity under the Act. The Jollyville Plateau salamander is a neotenic member of the family Plethodontidae. Neotenic salamanders do not metamorphose into a terrestrial form. They retain external gills and are aquatic throughout their lives (City of Austin 2001, p. 3). Jollyville Plateau salamanders are approximately 1.5 to 2 inches (38 to 51 millimeters) at maturity (City of Austin 2001, p. 5).

Jollyville Plateau salamanders are distributed within springs, spring-runs, and water-bearing karst formations in the Jollyville Plateau area of the Edwards Aquifer in Travis and Williamson counties, Texas (City of Austin 2001, p. 3). Karst is defined as “a type of terrain that is formed by the slow dissolution of calcium carbonate from limestone bedrock by mildly acidic groundwater. This process creates numerous cave openings, cracks, fissures, fractures, and sinkholes, and the bedrock resembles a honeycomb” (Veni and Associates 2002, p. 70). The salamander’s surface habitat is characterized by a typical depth of less than one foot (0.31 meters) of cool, well oxygenated water containing clean, loose substrates of boulder, cobble, and gravel (City of Austin 2001, p. 128). *Eurycea* species in Texas have been found to eat a variety of benthic macroinvertebrates (insects in their larval stage that are found at the bottom of a body of water), such as amphipods and chironomid larvae (midges) (City of Austin 2001, pp. 5–6).

#### Threats Analysis

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal List of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or

curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. The Act identifies the five factors to be considered, either singly or in combination, to determine whether a species may be threatened or endangered. In making this finding, we evaluated whether threats to the Jollyville Plateau salamander presented in the petition and other information available in our files at the time of the petition review may pose a concern with respect to its survival. The following evaluation of these threats was based on information provided or cited in the petition and found to be reliable. Unless otherwise indicated in this threats analysis section, the references cited were cited in the petition. The petition cited the draft Barton Springs Salamander Recovery Plan that was not finalized at the time we received the petition. However, we verified the information using the finalized, signed version (Service 2005), and we reference the page numbers from the finalized version in this finding. The petition also cites the Service’s draft 2002 Candidate Listing and Priority Assessment Form for the Jollyville Plateau Salamander, which was never finalized, and our 1997 Final Rule to list the Barton Springs salamander (62 FR 23377) as endangered.

#### A. Present or Threatened Destruction, Modification, or Curtailment of the Species’ Habitat or Range

The petition states that Jollyville Plateau salamanders are found only within the rapidly developing counties of Travis and Williamson, Texas, where they are dependent upon a constant supply of clean water from the northern segment of the Edwards Aquifer (City of Austin 2001, p. 3). Flows may also originate from the Trinity Aquifer during droughts (Cole 1995, pp. 23–33). As of 2006, City of Austin data reflect that central Texas watersheds occupied by Jollyville Plateau salamanders include Brushy Creek, Bull Creek, Buttercup Creek, Lake Creek, Lake Travis, Shoal Creek, South Brushy Creek, Walnut Creek, and West Bull Creek. The petitioner notes that the Edwards and Trinity aquifers are localized, small, and highly susceptible to pollution, drying, or draining (Chippendale et al. 2000, p. 36).

Information, including a map, provided with the petition depict that the majority of Jollyville Plateau salamander habitat is found in

urbanized areas or areas scheduled for development (City of Austin 2005a, map; O'Donnell 2005, slide 12; Cole 1995, p. 28). The petition states that once natural vegetation in a watershed is replaced with impervious cover, rainfall is converted to surface runoff instead of filtering through the ground (Schueler 1991, p. 114). Impervious cover is any surface material, such as roads, rooftops, sidewalks, patios, paved surfaces, or compacted soil, that prevents water from filtering into the soil (Arnold and Gibbons 1996, p. 244). The petition cites an assessment by The Center for Watershed Protection that impervious cover exceeding 10 percent causes a loss of sensitive aquatic organisms, reduction in stream biodiversity, water quality degradation, stream warming, and channel instability within a watershed (Schueler 1994, pp. 100–106).

The City of Austin 2001 report (pp. 16–39), which was cited in the petition, indicates that six of the nine tributaries included in a Jollyville Plateau salamander monitoring study conducted by the City of Austin from 1996 to the present have impervious cover estimates greater than 15 percent. The petition states that more than half of the salamander's known localities are located within the Bull Creek watershed. The Bull Creek watershed contains varying degrees of urban development (City of Austin 2001, pp. 21–33): As a whole, it is more than 50 percent developed and has an average impervious cover estimate of 21–24 percent (City of Austin 1999, p. ii). However, where the main stem of Bull Creek flows through the Balcones Canyonland Preserve (BCP), some of the best quality habitat remaining for the Jollyville Plateau salamander exists (O'Donnell 2005, slide 4; O'Donnell 2006).

The petition states that developed tributaries occupied by the Jollyville Plateau salamander had higher levels of chloride, nitrate-nitrogen, specific conductance, magnesium, potassium, sodium, sulfate, and fecal coliform compared to undeveloped tributaries ( $p < 0.05$ ) over the course of the City of Austin's monitoring study (City of Austin 2001, p. 59). Developed tributaries also experienced lower mean adult and juvenile Jollyville Plateau salamander abundances per square meter of wetted surface over the course of the study when compared to undeveloped tributaries ( $p < 0.05$ ) (City of Austin 2001, p. 99). Information provided by the petitioner citing lower salamander abundances and decreased water quality in developed tributaries is corroborated by information in our files.

The petition presents information about the negative effects of sedimentation on urban stream ecosystems and aquatic organisms. Sediments are mixtures of silt, sand, clay, and organic debris that are washed into tributaries during storm events (White and White 1968, p. 116; Ford and Williams 1989, p. 537; Mahler and Lynch 1999, p. 13). Due to high organic carbon content, sediments can act as a sink and/or transport mechanism for contaminants. Contaminant compounds such as polycyclic aromatic hydrocarbons (PAHs), petroleum hydrocarbons, and pesticides can be absorbed into sediment particles in concentrations that are orders of magnitude greater than found in the water column (Mahler and Lynch 1999, p. 12). The petition adds that PAH exposure can cause impaired reproduction, reduced growth and development, and tumors or cancer in species of amphibians and reptiles. PAH exposure can also cause reduced survival, altered physiological function, and changes in species populations and community composition of freshwater invertebrates (Albers 2003, p. 352). The petition does not present evidence that these contaminant compounds are affecting the Jollyville Plateau salamanders specifically. However, information on the effects of sedimentation and contaminant compounds on amphibians, reptiles, and other aquatic organisms provided by the petitioner is corroborated by information in our files. Contamination from sedimentation has been documented to negatively affect reproduction, growth, and development in amphibians and reptiles, and has been shown to reduce survival for aquatic invertebrates, the salamander's food source.

The petition also states that sediments suspended in water can clog gill structures of aquatic organisms and impair their ability to avoid predators or locate food sources and potential mates (Garton 1977, p. 443; Schueler 1987, p. 1.5). Excessive deposition of sediment can physically reduce the amount of available habitat and protective cover for aquatic organisms by clogging spaces under or between the pebbles and rocks that are used for protective cover (Welsh and Ollivier 1998, p. 1128). Sedimentation from construction events that began in 2000 has affected one of the two City of Austin reference sites used in the aforementioned salamander monitoring study. The site, used as a control for the study due to its undeveloped status at the beginning of the study in 1996, can no longer be used

as an undeveloped control due to the impacts corresponding to an increase in active construction upstream, including loss of salamander, benthic macroinvertebrate, and aquatic plant habitat (O'Donnell 2005, slide 14). We verified the petitioner's claim with information in our files indicating that, following construction, the City observed a decline in Jollyville Plateau salamander sightings in this tributary from more than 70 individuals per survey before the construction to rarely more than 1 after the construction began (O'Donnell 2006). The City of Austin monitoring study provides evidence that, as sediment deposition increases, salamander abundances significantly decrease ( $p < 0.01$ ) (City of Austin 2001, pp. 101, 126). In addition, the petition cites observations by City of Austin biologists involved in the study that indicated that once a sediment layer is established, Jollyville Plateau salamander habitat is lost (O'Donnell 2005, slide 23). Information provided by the petitioner on the effects of sedimentation is corroborated by information in our files.

The petition suggests that frequent human visitation and gas line or sewage spills associated with developed tributaries may negatively affect Jollyville Plateau salamanders and their habitat. The petition cites documentation from the City of Austin of disturbed vegetation, vandalism, and the destruction of travertine deposits by foot traffic at one of their salamander monitoring sites in the Bull Creek watershed. The drainage area was also impacted by a construction sediment spill in 1994 (City of Austin 2001, p. 21). Several sewage spills occurred in another drainage area within the Bull Creek watershed during the mid-1990s, and the area still contains a subsurface sanitary sewer line that, if a leak occurs, could affect the salamanders living downstream (City of Austin 2001, pp. 21, 74). The petition also provides information regarding several spills affecting a tributary supporting Jollyville Plateau salamanders located in the Shoal Creek watershed, including a 50-gallon gas spill that occurred in 1987, a several gallon hydraulic fluid spill in 1995, followed by a 50-gallon diesel spill in 1996. There is at least one leaking underground storage tank located in this tributary (City of Austin 2001, p. 16). Information provided by the petitioner regarding gas, sediment, and sewage spills in the range of the Jollyville Plateau salamander is corroborated by information in our files.

The petition states that Jollyville Plateau salamander deformities, mainly in the form of curvature of the spine,

have been found at two of the City's Bull Creek watershed monitoring sites (City of Austin 2001, p. 120). The petition states that the City of Austin documented elevated levels of nutrients, particularly nitrates, at these sites and suggested that this was the cause of the deformities (O'Donnell et al. 2005, p. 11). The petition discusses these deformities as part of listing factor C, "Disease or Predation." But, because the petition suggests that elevated nitrates are the likely cause of the spinal curvatures, we are including this information under Factor A, as a form of habitat modification. Information in our files states that possible sources of spinal curvature in amphibians include pathogens, inadequate nutrition, and contamination. After several labs conducted necropsies on some of the affected Jollyville Plateau salamanders, no obvious pathogens emerged as the cause (O'Donnell et al. 2005, p. 11). Information in the City's report indicates that nitrate levels at both of these sites have averaged six times greater than undeveloped Edwards Aquifer springs (City of Austin 2001, p. 120; O'Donnell et al. 2005, p. 11). Other studies cited in the City's report include documentation of salamander larvae and tadpoles developing bent tails, body swelling, and other deformities when continuously exposed to similar nitrate levels for more than five days (City of Austin 2001, p. 123; O'Donnell et al. 2005, pp. 11–12). Thus, environmental toxins are suspected by City biologists as a leading cause of the spinal curvature (O'Donnell et al., 2005, p. 11). Information in our files demonstrates that deformities continue to be observed, include missing eyes, limbs, and digits (O'Donnell et al. 2005, pp. 11–12). Information provided by the petitioner regarding the documented elevated nitrates and Jollyville Plateau salamander deformities is corroborated by information in our files.

The petition states that the City of Austin has plans to build a Water Treatment Plant in the Balcones Canyonland Preserve (BCP) above the main stem of Bull Creek, which is considered one of the best undeveloped habitats remaining for the Jollyville Plateau salamander (O'Donnell 2005, slide 4, slide 12; O'Donnell 2006). Although most of the creek's watershed is developed or slated for development, the main stem of the creek runs through the BCP, which has been providing water quality protection for the salamander by preventing development along that part of the creek (O'Donnell 2005, slide 4; O'Donnell 2006). The petition states the new plant will likely

degrade the water quality of the creek as well as increase sediment loads within the salamander's habitat (O'Donnell 2006). Information provided by the petitioner on a new water treatment plant slated for development above the main stem of Bull Creek is corroborated by information in our files. We consider the petition to present substantial information that the Jollyville Plateau salamander may be threatened by habitat-based threats such as water quality degradation.

The petition also reports that increasing demand on the northern segment of the Edwards Aquifer for local human water consumption and diversion of surface runoff that would otherwise recharge the aquifer could result in lower spring surface discharge. Hundreds of springs have dried up in Texas due to human impacts on the aquifers, such as over-pumping, increases in impervious cover, and surface run-off diversion (Schram 1995, p. 90). To exacerbate this issue, the portion of the Edwards Aquifer underlying the Jollyville Plateau is relatively shallow, with a high elevation, thus being likely to dry out at the surface during periods of drought (Cole 1995, pp. 26–27). Information provided by the petitioner regarding increasing demand for water from the segment of the aquifer containing the Jollyville Plateau salamander, the susceptibility of that portion of the aquifer to dry out at the surface, and the documented effects of human impacts and over-pumping on aquifer systems in Texas is corroborated by information in our files. Previous Service documents have discussed reduced spring flow as a potential threat to similar *Eurycea* salamanders occurring in the Edwards Aquifer (Service 2005, pp. 1.6–22, 1.6–23). We are not making a finding on whether the petitioners have presented substantial information that the Jollyville Plateau salamander may be threatened by habitat-based threats associated with aquifer depletion. We will consider information related to this issue during the status review.

#### *B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

According to the petition, overutilization is not considered a threat to the Jollyville Plateau salamander at this time.

#### *C. Disease or Predation*

The petition contends that City of Austin biologists found Jollyville Plateau salamander abundances were negatively correlated with the abundance of predatory centrarchid fish

(carnivorous freshwater fish belonging to the sunfish family), such as black bass (*Micropterus spp.*) or sunfish (*Lepomis spp.*) (City of Austin 2001, p. 102). Information provided by the petitioner on the negative correlation documented between salamander abundances and the abundance of predatory fish is corroborated by information in our files. There have been no direct observations of negative interactions between Jollyville Plateau salamanders and centrarchid fish. Predation could have an additive effect to other threats occurring and may be significant in combination with those threats.

#### *D. Inadequacy of Existing Regulatory Mechanisms*

The petitioner states that there is currently no protection for the Jollyville Plateau salamander provided by Texas State Law. The species is not listed on the Texas State List of Threatened or Endangered Species. There were no sources cited in the petition regarding this statement, but this was verified by reviewing the State's list of threatened and endangered species (TPWD 2006, pp. 2–3).

The Balcones Canyonland Preserve (BCP) offers some water quality benefits to portions of the Bull Creek, West Bull Creek, Buttercup Creek, and Lake Travis watersheds through preservation of open space over their recharge zones (Service 1996a, pp. 2–28–2–29). However, some of the sites known to be occupied by the Jollyville Plateau salamander within the BCP can be affected by changes in land use and subsequent water quality degradation occurring in portions of contributing watersheds outside of the preserved tracts. Specifically, the preserved tracts within the BCP do not appear to be effective at reducing nutrient levels at some salamander sites (City of Austin 1999, p. 6–11). In addition, Jollyville Plateau salamanders are not a covered species under the section 10(a)(1)(B) permit under which the preserves were established (Service 1996b, pp. 1–10).

The petition states that the City of Austin's water quality ordinances provide some water quality regulatory protection to the salamander's habitat, but do not appear to be effective at reducing nutrient levels. The petition also notes that less than 20 percent of all development in the Bull Creek watershed is subject to the most stringent regulations, while the other 80 percent was developed prior to the passage of these regulations in 1993 (City of Austin 1999, p. 6–11). Additionally, regulations aimed at limiting impervious cover over the

Edwards Aquifer have been exempted by numerous grandfathering laws (Chapter 245 of the Texas Local Government Code as discussed in Service 2005, p. 1.6–17).

There are several State regulations, such as the Texas Commission on Environmental Quality's (TCEQ) Edwards Rules, along with some municipal ordinances, that are designed to minimize water quality degradation from new development. The Edwards Rules regulate activities that may pollute the Edwards Aquifer. The Edwards Rules do not address land use, impervious cover limitations, nonpoint source pollution, or application of fertilizers and pesticides over the recharge zone (The Edwards Aquifer Rules as discussed in 62 FR 23389; The Edwards Aquifer Rules as discussed in Service 2005, p. 1.6–16). Based on trend data that shows degradation of water quality at Barton Springs over the years, existing regulations for maintaining water quality in the Edwards Aquifer may not adequately protect the salamander (City of Austin 2005b, p. 20 as cited in Service 2005, p. 1.6–16). Information provided by the petitioner on the inadequacies of existing regulatory mechanisms is corroborated by information in our files. Data indicate that water quality degradation in streams occupied by the Jollyville Plateau salamander and other areas in the Edwards Aquifer such as Barton Springs continue to occur despite the existence of current regulatory mechanisms. Therefore, we consider the petition to present substantial information that inadequacy of existing regulatory mechanisms poses a substantial threat to the Jollyville Plateau salamander.

#### *E. Other Natural or Manmade Factors Affecting the Species' Continued Existence*

The petition states that natural factors negatively affecting the Jollyville Plateau salamander include its limited distribution and amphibians' sensitivity to water quality degradation. Amphibians, especially their eggs and larvae, are sensitive to many pollutants including heavy metals, insecticides, nitrates, salts, and petroleum hydrocarbons (Harfenist et al. 1989, pp. 4–57). In addition, crustaceans on which the Jollyville Plateau salamander feeds are especially sensitive to water pollution (Phipps et al. 1995, p. 282). Information provided by the petitioner on the Jollyville Plateau salamander's limited distribution and amphibian sensitivity to pollutants is corroborated by information in our files. As discussed under Factor A, the present or

threatened destruction, modification, or curtailment of the species' habitat or range, Jollyville Plateau salamanders exhibit potential sensitivities to certain aspects of water quality degradation such as increased sedimentation from construction events (O'Donnell 2006) and/or abnormal development in areas with high nitrate levels (O'Donnell et al. 2005, pp. 11–12). Thus, we find that the petition presents substantial information that natural factors may increase susceptibility to other threats.

#### **Finding**

We have reviewed the petition and literature cited in the petition, and evaluated that information we deemed reliable to make this finding. We used other reliable information that was readily available in our files or readily available to us at the time of the petition review to evaluate the reliability of information in the petition. The petition presents evidence of water quality degradation resulting in lower salamander abundances, a loss in salamander habitat, and possible salamander deformities within urbanized areas of their habitat. The petition also presents evidence of expanding urbanization throughout their range, including areas that are currently considered protected. The information in our files supports the petition's statements regarding these threats to the salamander. Thus, we believe that the petition presents substantial information indicating water quality degradation combined with the species' limited distribution may increase extinction risk. In addition, existing available regulatory mechanisms appear potentially insufficient to control water quality levels in salamander habitat and prevent the progressive decline of the habitat upon which the Jollyville Plateau salamander depends. On the basis of this review and evaluation, we find that the petition presents substantial information indicating that listing the Jollyville Plateau salamander may be warranted. As such, we are initiating a further status review of the Jollyville Plateau salamander to determine whether listing the species under the Act is warranted.

We have also reviewed the available information to determine if the existing and foreseeable threats pose an emergency to this species. The immediacy of the threats described in the petition do not appear to be so great to a significant portion of the total population that the routine listing process would not be sufficient to prevent large losses that could otherwise result in extinction.

Furthermore, we do not believe that expected losses of the salamander during the normal listing process would risk the continued existence of the entire listed species. For these reasons, we have determined that an emergency listing is not warranted at this time. However, if at any time we determine that emergency listing of the Jollyville Plateau salamander is warranted, we will seek to initiate an emergency listing process.

#### **References Cited**

A complete list of all references cited herein is available, upon request, from the Austin Ecological Services Field Office (see **ADDRESSES** section).

#### **Author**

The primary author of this notice is the Austin Ecological Services Field Office (see **ADDRESSES** section).

#### **Authority**

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 6, 2007.

#### **Kenneth Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. E7–2289 Filed 2–12–07; 8:45 am]

**BILLING CODE 4310–55–P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the San Felipe Gambusia as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the San Felipe gambusia (*Gambusia clarkhubbsi*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial information indicating that listing the San Felipe gambusia may be warranted. Therefore, we will not initiate a further status review in response to this petition. We ask the public to submit to us any new information that becomes available