

system on the bus's left side, and the portion on its right side, each:

(a) Includes at least one mirror of unit magnification with not less than 322.60 square centimeters (50 square inches) of reflective surface; and

(b) Includes one or more mirrors which together provide, at the driver's eye location, a view of:

(1) For the mirror system on the right side of the bus, the entire top surface of cylinder N in Figure 2, and that area of the ground which extends rearward from cylinder N to a point not less than 60.93 meters (200 feet) from the mirror surface.

(2) For the mirror system on the left side of the bus, the entire top surface of cylinder M in Figure 2, and that area of the ground which extends rearward from cylinder M to a point not less than 60.93 meters (200 feet) from the mirror surface.

\* \* \* \* \*

Issued on July 5, 1994.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

50 CFR Part 17

124-94

#### Endangered and Threatened Wildlife and Plants; Notice of 90-Day and 12-Month Findings on a Petition to Reclassify Spikedace (*Meda fulgida*) and Loach Minnow (*Tiaroga cobitis*) From Threatened to Endangered

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

**ACTION:** Notice of petition findings.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces 90-day and 12-month findings for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds that the petitioners have presented substantial information indicating reclassification of spikedace and loach minnow from threatened to endangered may be warranted. The Service has previously found that reclassification of spikedace and loach minnow is warranted, but is precluded by work on other pending listing actions of higher priority on which expeditious progress is being made.

**DATES:** The findings announced in this document were made on June 30, 1994. Comments and materials may be submitted until further notice.

**ADDRESSES:** Information, comments, or questions concerning the petitioned actions may be submitted to the State Supervisor, Arizona Ecological Services State Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, Suite 6, Phoenix, Arizona 85109. The petitions, findings, supporting information, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Sally Stefferud at the above address (Telephone 602/379-4720).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires the Service to 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. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and notice of the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a status review of the species involved. Section 4(b)(3)(B) requires that the Service make a further finding as to whether or not a petition presenting substantial information in support of listing, delisting, or reclassification of a species is (i) warranted, (ii) not warranted, or (iii) warranted but precluded by work on other pending listing actions of higher priority on which expeditious progress is being made. This finding is to be made within 12 months of receipt of the petition. Depending upon the conclusion of the finding, the Service must promptly publish in the **Federal Register** either a notice of the finding or a proposal on the petitioned action.

On September 22, 1993, the Department of the Interior received a petition, dated September 17, 1993, from David Hogan, Silver City, New Mexico; Peter Galvin, Silver City, New Mexico; the Greater Gila Biodiversity Project, Silver City, New Mexico; the Southwest Center for Biological Diversity, Phoenix, Arizona; and the Biodiversity Legal Foundation, Boulder, Colorado. The petitioners requested the Service to reclassify the spikedace (*Meda fulgida*) and loach minnow (*Tiaroga cobitis*), from threatened to endangered. On November 10, 1993, the Service informed the petitioners that their correspondence had been accepted as a valid petition.

These 90-day and 12-month findings are based on published and unpublished biological and commercial information, inter- and intra-agency communications, and communications with experts. All information used in these findings is on file in the Service's Arizona Ecological Services State Office in Phoenix.

Spikedace and loach minnow are two small minnows which inhabit isolated stretches of stream in the upper reaches of the Gila River basin in Arizona and New Mexico (Minckley 1973, Propst *et al.* 1986, Propst *et al.* 1988, Propst and Bestgen 1991, Rinne 1991). Their historic range included most of the Gila River basin; however, both species have undergone dramatic declines since the late 1800's. These declines were due to water developments such as impoundment, diversion, channelization, and groundwater pumping; to watershed degradation and erosion caused by activities such as livestock grazing, timber harvest, road building, and recreation; and to effects of the introduction and spread of nonnative fish species. Both species live in relatively fast flowing water in perennial stream stretches.

Spikedace are presently known only from isolated stretches of the Gila River, Grant and Catron Counties, New Mexico; Aravaipa Creek, Graham and Pinal Counties, Arizona; Eagle Creek, Greenlee County, Arizona; and the Verde River, Yavapai County, Arizona. Loach minnow are presently known only from isolated stretches of the Gila River, Grant and Catron Counties, New Mexico; Aravaipa Creek, Graham and Pinal Counties, Arizona; the East Fork and mainstem White Rivers, Navajo and Gila Counties, Arizona; the San Francisco and Tularosa Rivers and Dry Blue Creek, Catron County, New Mexico; and the Blue and San Francisco Rivers and Campbell Blue Creek, Greenlee County, Arizona.

The spikedace was listed as a threatened species on July 1, 1986, and the loach minnow was listed as a threatened species on October 28, 1986. Critical habitat was designated for both species on March 8, 1994. A threatened species is defined by the Act as a species "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." An endangered species is defined by the Act as one "which is in danger of extinction throughout all or a significant portion of its range."

In 1991, the status of spikedace and loach minnow were reviewed as part of the 5-year review of the status of listed species as required by section 4(c)(2) of

the Act. That review showed that the status of the two species had become more precarious over the previous five years due to substantial increases in threats. As a result, the Service found that both species met the requirements for endangered status. The Desert Fishes Recovery Team and the Arizona Game and Fish Department have recommended reclassification to endangered for both species.

At the same time that threats to the species are increasing, new genetic information suggests a need to preserve each of the fragmented populations of spikedace and loach minnow in order to maintain as much genetic diversity in the species as possible (Tibbets 1992). Four of the five remaining loach minnow populations have been subjected to genetic analyses and each appears to be distinctive. Genetic analyses on the four remaining spikedace populations indicate that each of the four populations is quite different, with the Verde River population being most distinct.

#### Petition Findings

After reviewing the petition and all other pertinent information, the Service finds that the petition presents substantial information to indicate that reclassification to endangered may be warranted for spikedace and loach minnow. A positive 90-day finding generally requires that a status review be conducted on the petitioned species. However, as previously mentioned, a status review was conducted in 1991, resulting in a finding that endangered status is appropriate, but that higher-priority listing actions precluded the rulemaking process to reclassify the species.

Benefits to the spikedace and loach minnow from reclassification to endangered status would include recognition of the more precarious status of the species and increased penalties for conducting activities prohibited under section 9 of the Act. However, these benefits would be incremental to the protection under the Act already applied to these threatened species. This incremental protective increase is of lesser priority than providing protection to species with no current legal protection under the Act.

After reviewing all available scientific and commercial information on the spikedace and loach minnow and their status and after consideration of other listing actions and their priorities, the Service finds that the reclassification of spikedace and loach minnow to endangered is warranted, but is precluded by work on pending listing

actions of higher priority on which expeditious progress is being made.

#### References Cited

- Minckley, W.L. 1973. Fishes of Arizona. Arizona Game and Fish Department. Phoenix, AZ. 293 pp.
- Propst, D.L. and K.R. Bestgen. 1991. Habitat and biology of the loach minnow. *Copeia* 1991(1):29-38.
- Propst, D.L., K.R. Bestgen, and C.W. Painter. 1986. Distribution, status, biology, and conservation of the spikedace (*Meda fulgida*) in New Mexico. U.S. Fish and Wildlife Service Endangered Species Report No. 15. 93 pp.
- Propst, D.L., K.R. Bestgen, and C.W. Painter. 1988. Distribution, status, biology, and conservation of the loach minnow, *Tiaroga cobitis* Girard, in New Mexico. U.S. Fish and Wildlife Service Endangered Species Report No. 17. 75 pp.
- Rinne, J.N., 1991. Habitat use by spikedace, *Meda fulgida* (Pisces: Cyprinidae) in southwestern streams with reference to probable habitat competition by red shiner, *Notropis lutrensis* (Pisces: Cyprinidae). *Southwestern Naturalist* 37(2):117-125.
- Tibbets, C.A. 1992. Allozyme variation in populations of the spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga cobitis*). *Proceedings of the Desert Fishes Council* 24:37.

#### Author

The primary author of this document is Sally Stefferud of the Arizona Ecological Services State Office, Phoenix (see ADDRESSES section).

**Authority:** The authority for this action is 16 U.S.C. 1531-1544.

Dated: June 30, 1994.

**Mollie H. Beattie,**

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

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#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding and Commencement of a Status Review for a Petition To List the Plant *Lathyrus Grimesii* (Grimes Vetchling)

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

**ACTION:** Notice of petition finding and status review.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 90-day finding on a petition to list the plant *Lathyrus grimesii* (Grimes vetchling)

under the Endangered Species Act of 1973, as amended (Act). The petition was found to present substantial information indicating the requested action may be warranted. The Service requests information regarding the status of this species.

**DATES:** The finding announced in this notice was made on June 27, 1994. Comments and information concerning this finding must be submitted by August 10, 1994 to be considered in the 12-month finding for this petition.

**ADDRESSES:** Data, information, comments, or questions concerning this finding should be sent to the Field Supervisor, Nevada Field Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C, Room 125, Reno, Nevada 89502. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Janet J. Bair, Botanist, at the above Nevada Field Office address (702/784-5227).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the requested action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the *Federal Register*. This finding is based on information contained in the petition and otherwise available to the Service at the time the finding is made. If the finding is that substantial information was presented, the Service also is required to promptly commence a review of the status of the species involved, if one has not already been initiated under the Service's internal candidate assessment process.

On May 19, 1993, the Service received a petition dated May 10, 1993, from Ms. Mary Pat Matheson, Director of the University of Utah's Red Butte Garden and Arboretum, to list *Lathyrus grimesii* as an endangered species using the emergency provisions of the Act. The Red Butte Arboretum is a Participating Institution of the Missouri Botanic Garden's Center for Plant Conservation, a network of 20 botanical gardens and arboreta dedicated to the conservation of rare and endangered plants in the United States.