

80-84

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on 6 Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of finding on petitions.

SUMMARY: The Service announces finding on various petitions to list or delist fish, wildlife, or plants under the Endangered Species Act.

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned 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**.

DATES: The dates of the various findings is presented in the Background section.

ADDRESSES: Questions or comments concerning this finding should be submitted to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service (OES), Department of the Interior, Washington D.C. 20240. The petitions, and their supporting data, are available for public inspection by appointment during normal business hours at the Services's Office of

Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned 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**.

The 1982 amendments to the Endangered Species Act also require a finding to be made within 12 months of petition receipt for any petition accepted for review in accordance with paragraph A or D(i) of section 4(b)(3) as amended. Pursuant to paragraph B or D(ii) of section 4(b)(3), this determines whether or not the requested action is warranted. The finding and any further procedures to be undertaken (for example species listing or delisting, critical habitat revision, or necessary postponement of such actions) are to be announced promptly in the **Federal Register**.

Expeditious progress in listing is being made, and is annually reported on in the

Federal Register. The first such progress report was published on January 20, 1984 (49 FR 2485).

Findings

1. On April 12, 1983, the Desert Fishes Council petitioned the Service to list the following 17 desert fishes:

Desert dace, *Eremichthys acros*
Hutton Spring tui chub, *Gila bicolor* ssp.
Fish Creek Springs tui chub, *Gila bicolor euchila*
Owens tui chub, *Gila bicolor snyderi*
Yaqui chub, *Gila purpurea*
White River spinedace, *Lepidomeda albivallis*
Big Spring spinedace, *Lepidomeda mollispinis pratensis*
Little Colorado spinedace, *Lepidomeda vittata*
Pecos bluntnose shiner, *Notropis simus pecosensis*
Foskett Spring speckled dace, *Rhinichthys osculus* ssp.
Modoc sucker, *Catostomus microps*
Warner sucker, *Catostomus warnerensis*
June sucker, *Chasmistes liorus mictus*
White River springfish, *Crenichthys b. baileyi*
Hiko White River springfish, *Crenichthys baileyi grandis*
Railroad Valley springfish, *Crenichthys nevadae*
Desert pupfish, *Cyprinodon macularius*

The Service reviewed the petition and found that substantial information had been presented indicating that the petitioned action may be warranted. This 90 day finding was announced in the **Federal Register** on June 14, 1983 (48 FR 27273-74). On April 12, 1984 the Service made its one-year finding on this petition. The Service found that the petitioned action, to list the 17 desert fishes, was warranted. The Service has published proposals in the **Federal Register** to list 16 of the 17 petitioned species. A proposal to list the remaining species, Little Colorado spinedace, is expected to be published in the **Federal Register** in the near future.

2. A petition from Ms. Marie C. Peronne of Clarence, New York dated April 30, 1984, was received by the Service on May 2, 1984. Ms. Peronne's petition requested that two birds be listed as endangered species and five plants be listed as threatened species under the Endangered Species Act. The species are: *Tyto longimembris* (grass owl), *Sypheotides indica* (long-legged bustard), *Mentzelia albicaulis* (white-stemmed evening-star), *Salix amygdaloides* (peach-leaved willow), and the milkworts *Polygala alba*, *P. paucifolia*, and *P. verticillata*. On June 8, 1984, the Service made its finding that the petition did not present substantial

information for any of the species and that the petitioned actions are not warranted, in accord with Section 4(b)(3)(A) of the Act. The Service checked available data and found that none of the species appear vulnerable to extinction at this time. The petition did not provide any data on threats to these species and the Service found no data indicating threats to these species; therefore, the Service is rejecting this petition.

3. Dr. Jeffrey A. Cox of the Florida State Museum, Gainesville, submitted a petition dated March 16, 1984. The petition was received by the Service on March 22, 1984, and requested that the Florida scrub jay (*Aphelocoma coerulescens coerulescens*) be listed as a threatened species under the Act. The jay is endemic to central Florida and is found in a very specific habitat: oak scrub. This habitat is becoming more restricted, if not eliminated, although the bird can be found in good numbers in the remaining habitat. The Service made its finding that the petition included substantial information that the petitioned action is warranted on May 4, 1984.

4. A petition from the Pacific Legal Foundation, Save Our Shellfish, and the Greater Los Angeles Council of Divers, dated February 3, 1984, was received by the Service on February 6, 1984. This petition requested the delisting of the southern sea otter (*Enhydra lutris nereis*), a mammal found off the coast of central California that is currently classified as threatened. The Service has made the finding that this petition does not present substantial information in support of the requested action. The two main points of the petition are that the southern sea otter is not a separate subspecies and that it is not threatened by a potential oil spill. The first point is not supported by the preponderance of available evidence, and, in any case the population qualifies for listing under the Endangered Species Act regardless of whether it is a distinct subspecies. The second point is contrary to extensive other information available to the Service, and in any case, the threat of an oil spill is only one of several factors jeopardizing the involved population.

5. A petition from Friends of the Sea Otter, dated May 1, 1983, was received by the Service on May 9, 1983. This petition requested the reclassification of the southern sea otter from threatened to endangered. The petition stated that the southern sea otter, which was classified as threatened in 1977, has deteriorated in status and is now in danger of extinction. The threat of an oil spill from a tanker, cited as the main problem in the original listing, was cited

as a continuing problem. The petition also claimed that other problems not mentioned or not considered substantial in the original listing have developed. Intensive exploration and leasing of offshore oil tracts was noted. Direct, malicious killing of sea otters by people was alleged to be a significant cause of mortality, as was incidental drowning of sea otters in fishing nets. In addition, the petition stated that the species may also be jeopardized by pollution from toxic trace metals, synthetic organic compounds, and raw sewage. Finally, it was noted that new evidence indicated that the sea otter population was considerably smaller than thought in 1977, that it was not increasing as was believed at that time, and that it may be declining. The Service reviewed this petition and found that substantial information has been presented that the requested action may be warranted. This 90-day finding was announced in the **Federal Register** of June 14, 1983 (48 FR 27272). On May 24, 1984, the Service made its one-year finding on this petition. The Service found that the petitioned action to reclassify the southern sea otter as endangered was not warranted at this time because the danger of extinction does not appear to be immediate, and because a recovery plan for the sea otter is currently being implemented.

6. A petition from Mr. Alan Herndon of Florida International University dated March 17, 1984, was received by the Service on March 22, 1984. Mr. Herndon's petition requested that 2 Florida plants, *Amorpha crenulata* (Fabaceae) and *Galactia smallii* (Fabaceae), be listed as endangered under the Endangered Species Act. Both plants are endemic to Dade County, Florida and appear to be in danger of extinction due to loss of habitat. The Service made its finding that the petition included substantial information that the petitioned action may be warranted on June 5, 1984. The plants are therefore placed in category 1 of the notice of review on candidates (48 FR 53639).

The Service would appreciate any additional data, comments, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the Florida scrub jay and the 2 Florida plants *Amorpha crenulata* and *Galactia smallii*.

Author

This notice was prepared by Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975)

based on information supplied by the U.S. Fish and Wildlife Service Regional Offices and Biological Support staff of the Washington Office of Endangered Species.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife,
Fish, Marine mammals, Plants
(agriculture).

Dated: July 6, 1984.

Susan Recce,

*Acting Assistant Secretary for Fish and
Wildlife and Parks.*

[FR Doc. 84-18520 Filed 7-12-84; 8:45 am]

BILLING CODE 4310-55-M