

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Findings on Pending Petitions and Description of Progress of Listing Actions**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on pending petitions.

SUMMARY: The Service announces its findings on pending petitions to add to and revise the Lists of Endangered and Threatened Wildlife and Plants. These findings must be made within one year of either the date of receipt of such a petition or of a previous positive finding. The Service also describes its progress in revising the lists during the period from October 1, 1986, to September 30, 1987.

DATES: The findings announced in this notice were made between June 11, 1987, and October 15, 1987. The description of the Service's progress in revising the lists is current as of October 1, 1987. Comments regarding any species or petition mentioned may be submitted until further notice.

ADDRESSES: Chief, Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771 or FTS 235-2771). Comments regarding the western or Pacific island species should be addressed to Regional Director, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Gerge Drewry (703/235-1975 or FTS 235-1975.)

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made on the merits within 12 months of the date of receipt of the petition. Provisions of the Endangered Species Act Amendments of 1982 required that such petitions pending on the date of enactment of the Amendments be treated as having been filed on that date, i.e. October 13, 1982. Section 4(b)(3)(C)(i) of the Act requires that any petition for which a 12-month

finding of "warranted but precluded" is made should be treated as having been resubmitted on the date of such a finding, with substantial scientific or commercial information that the petitioned action may be warranted, thereby requiring an additional finding to be made within 12 months. This notice reports findings made on or before October 14, 1987, in respect to pending petitions for which such additional findings were due, and describes the Service's progress in revising the Lists of Endangered and Threatened Wildlife and Plants during the fifth year following the enactment of the 1982 Amendments.

All but one of the plant species involved in these petition findings were listed individually in a comprehensive notice of review for plants first published in the *Federal Register* on December 15, 1980 (45 FR 82480), and most recently updated as a notice of review published September 27, 1985 (50 FR 39526). The animal species mentioned below, but not named individually, were identified individually in the first announcement of 12-month petition findings published in the *Federal Register* on January 20, 1984 (49 FR 2485), and again in the second annual announcement published on May 10, 1985 (50 FR 19761).

Findings

Section 4(b)(3)(B) of the Act requires that the Service make one of the following 12-month findings on each petition presenting substantial information: (i) The petitioned action is not warranted; (ii) the petitioned action

is warranted and will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species. Petitioned actions found to be warranted are the subjects of proposals that will be published promptly or have already been published in the *Federal Register*. Therefore only findings of "not warranted" and "warranted but precluded" for pending petitions are reported here.

"Not warranted" and "warranted but precluded" findings for pending plant petitions repeat the findings made in October 1986 and announced in the *Federal Register* for June 30, 1987 (52 FR 24312), except for the removal of 24 plant species proposed for listing as threatened or endangered during fiscal 1987. Findings on the plants are made by notice of review categories; application of these to individual taxa is published in a notice of review for plants published September 27, 1985 (50 FR 39526). The plant notice category number opposite the name of each taxon that is the subject of a pending petition indicates the Service's finding on that taxon. Findings of "not warranted" on the petitioned action are reported by the designation of subcategories 3A, 3B, or 3C for such taxa. Findings of "warranted but precluded" are reported by the designation of category 1.1*, 1**, 2, 2*, or 2** for subject taxa. The complete definitions of these category numbers are described on pages 39526 and 39527 in the 1985 general plant notice of review (50 FR 39526). A finding of

"warranted but precluded" was also made for a petition to list the plant *Talinum humile* (the Pinos Altos fame flower) received October 15, 1985, from Mr. Paul R. Neal. This plant is being treated as a category 2 candidate species.

The Service's 12-month findings of "not warranted" and "warranted but precluded" on pending animal petitions are presented in Table 1. Each petition mentioned in Table 1 has had one or more previous findings of "warranted but precluded" reported in the *Federal Register*. The initial (90-day) findings for petitions listed in Table 1 were announced in the *Federal Register* on February 15, 1983 (48 FR 6752), January 16, 1984 (49 FR 1919), December 18, 1984 (49 FR 49118), April 2, 1985 (50 FR 13054), July 5, 1985 (50 FR 27637), August 30, 1985 (50 FR 35272), or May 2, 1986 (51 FR 16363).

The word "Yes" in the "Warranted?" column of Table 1 indicates petitions to list, delist, or reclassify species for which the principal findings are "warranted but precluded" from immediate proposal by other efforts to revise the lists. Note in the "Description" column that at least some species mentioned in the original petitions have been individually found to be warranted. The species so noted were named in previous notices of petition findings. Three of the species (noted by the word "No" in the "Warranted" column) have new 1987 findings of "not warranted" announced here.

TABLE 1.—TWELVE-MONTH FINDINGS ON PENDING ANIMAL PETITIONS

Description	Petitioner	Date received	Warranted? ¹
5 species of sponges (2 others not warranted)	Mr. Ronald M. Cowden	June 17, 1974	Yes.
38 species of cave crustaceans (12 others not warranted)	National Speleological Society	Sept. 9, 1974	Yes.
6 species of cave amphipods (1 other not warranted)	Dr. John Hoisinger	July 12, 1974	Yes.
Uncompahgre fritillary butterfly	Dr. Lawrence F. Gall	Nov. 5, 1979	Yes.
Columbia River tiger beetle	Mr. Gary Shook	Dec. 15, 1979	Yes.
Shoshone sculpin	Dr. Peter A. Bowler	Dec. 3, 1979	Yes.
Bonneville cutthroat trout	Desert Fishes Council	Oct. 23, 1979	Yes.
Silver rice rat	Center for Action on Endangered Species	March 12, 1980	Yes.
Bliss Rapids snail and Snake River physa snail	Dr. Peter A. Bowler	Feb. 7, 1980	Yes.
10 U.S. and 60 foreign species of birds (4 others listed, 5 not warranted)	International Council for Bird Preservation	Nov. 24, 1980	Yes.
Guam rufous-fronted fantail	Hon. Paul M. Calvo, Governor of Guam	Dec. 23, 1981	No.
Organefin madtom and Roanoke logperch	Mr. Noel M. Burkhead	Oct. 6, 1983	Yes.
Barbara Anne's tiger beetle and Guadalupe Mountains tiger beetle	W.D. Sumlin, III and Christopher D. Nagano	July 24, 1984	Yes.
Spiny River Snail	American Malacological Union	Aug. 13, 1984	Yes.
Desert tortoise in remainder of its range	Dr. Martha L. Stout, Dr. Faith T. Campbell, and Mr. Michael J. Bean	Sept. 14, 1984	Yes.
Samoan fruit bat (flying fox)	Mr. Paul Allen Cox	Nov. 27, 1984	No.
Lower (Florida) Keys marsh rabbit	Ms. Joel L. Beardsley	April 27, 1985	Yes.
Henne's eucosman moth	Mr. Bruce S. Mannheim, Jr.	May 21, 1985	Yes.
Lora Aborn's moth	Mr. Bruce S. Mannheim, Jr.	May 21, 1985	No.

¹ But precluded by other actions to revise the List of Endangered and Threatened Wildlife.

Three findings of "not warranted" in Table 1 require explanation. The Service was requested by the Governor of Guam to list the Guam rufous-fronted fantail, *Rhipidura rufifrons uraniae*, in a petition received by the Service December 23, 1981. Repeated efforts to locate the species subsequently have been unsuccessful, and the accumulated evidence has reached the point at which the Service considers this bird to be extinct. It will be treated in future notices of animal review as a category 3A species, believed to be extinct. The appropriate petition finding is "not warranted" in respect to its addition to the List of Endangered and Threatened Wildlife and Plants.

A second finding of "not warranted" was made for a petition to list the Samoan fruit bat (flying fox), *Pteropus samoensis samoensis*. This petition came from Mr. Paul Allen Cox and was received by the Service on November 27, 1984. An earlier finding of "warranted but precluded" was announced on May 2, 1986 (51 FR 16363), but discrepancies between the population levels indicated by the petitioner and those found in subsequent (1985) surveys were mentioned at that time. Continued study has led to the conclusion that although the species is rare enough for some concern, there is not sufficient evidence that it is threatened to warrant its listing. It is a solitary species not as easily decimated by hunting as are some of its colonial relatives, and populations on several of the islands of Samoa appear to be stable at or near the carrying capacity of the environment. Remaining habitat is estimated to constitute 74 percent of Western and American Samoa. According to the best scientific and commercial information available, including the Service's own positive field survey data, the action requested by the petitioner is not warranted. It should be noted, however, that this species was recently included with other western Pacific *Pteropus* species on Appendix II of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), to regulate trade. The Service therefore expects to continue monitoring of its welfare at some level, and to be able to respond to any evidence of further decline. That commitment will be reflected in retention of category 2 status for this species in the next notice of animal review.

The other "not warranted" finding in Table 1 concerns Lora Aborn's moth, *Lorita abornana*. One of two subjects of a petition received from Mr. Bruce S. Mannheim, Jr., on May 21, 1985, it belongs to a group that was the subject

of dissertation research study by Dr. Michael G. Pogue. His research into the genus led to the scientific conclusion that *Lorita abornana* Busck is a synonym of *Lorita scarificata* (Meyrick), a widely distributed species of the New World tropics and Hawaii. Therefore, the population of *Lorita* at the El Segundo dunes of Los Angeles, California, does not appear to represent an entity qualified for listing under the Endangered Species Act. Separate findings are now indicated for the two subjects of Mr. Mannheim's petition on the basis of the best scientific and commercial information available, a finding of not warranted for Lora Aborn's moth, *Lorita abornana*, and a continued finding of warranted but precluded for Henne's eucosman moth, *Eucosma hennei*. *Lorita abornana* will be included in category 3B of the next notice of animal review, signifying that it lacks taxonomic validity.

The information in previous 12-month finding notices is current for the species indicated by "Yes" in the "Warranted" column of Table 1. In the case of the desert tortoise the Service has some information to add to the finding announced on July 1, 1987 (52 FR 24485). A name recognized by many authorities for the desert tortoise is *Xerobates agassizii*. Three major genetic groups of the desert tortoise exist, separated by the Colorado and Yaqui Rivers, apparently as genetically distinct from one another as is the Texas tortoise, *X. berlanderi*, from the desert tortoise. The Service believes that for certain area's of the species' range in Arizona and Mexico additional study is needed to determine the species' status. However, substantial information suggests that the degree of threat facing the species in California and Nevada is increasing. The Service retains the option to list those populations that currently face the highest degree of threat while studies proceed to resolve existing questions regarding remaining portions of the species' range.

The following petitions are not included in Table 1 and have first one-year findings announced here:

Dr. Thomas O. Lemke of Thomson Falls, Montana, in a petition dated February 24, 1986, and received March 4, 1986, requested the Service to determine endangered status for populations of the Marianus fruit bat, *Pteropus mariannus mariannus* and *Pteropus mariannus paganensis*, in the Commonwealth of the Northern Mariana Islands. The population of this species on Guam was listed as endangered on August 27, 1984 (49 FR 33885). The entire species, including the populations identified in

this petition, was already the subject of a status review initiated May 18, 1979 (44 FR 29128). In respect to Dr. Lemke's petition, the Service made a 90-day administrative finding that substantial information was presented that the action requested may be warranted; the 90-day finding was reported in the **Federal Register** on January 21, 1987 (52 FR 2239).

After subsequent review of all the scientific and commercial information available, the Service has determined that the action requested in respect to populations of this species on the islands of Agiguan, Tinian and Siapan is warranted but precluded by other pending proposals of higher priority. The finding is based on low population and decline in the fruit bat populations on these islands owing to their vulnerability to human disturbance, hunting, and inadequate legal protection. On Rota, Asuncion, Guguan, and other northern islands of the Commonwealth that may be inhabited by this species, the Service has determined that existing legal protection and inaccessibility to hunting are adequate to protect the populations, and that the action requested by the petitioner is not presently warranted.

In a separate petition dated February 24, 1986, and received March 4, 1986, Dr. Thomas O. Lemke also requested the Service to determine endangered status for the Sheath-tailed bat (*Emballonura semicaudata*) in the Commonwealth of the Northern Mariana Islands. This species in Guam was the subject of a status review initiated December 30, 1982 (47 FR 58454), and the distribution corrected to include the Northern Mariana Islands on September 18, 1985 (50 FR 37958). The Service made a 90-day administrative finding for this petition that substantial information was presented that the action requested may be warranted, and reported that finding in the **Federal Register** on January 21, 1987 (52 FR 2239).

After review of the best scientific and commercial information available, the Service has determined that the action requested by this petitioner is not warranted. The basis for the finding was that there is only sketchy evidence of any decline in the petitioned population, and that it may be an "outlier" of a widespread species in the western Pacific.

In a petition dated March 10, 1986, and received March 19, 1986, the Service was requested by Mr. Tom R. Johnson, representing the Missouri Department of Conservation, to list the Oklahoma salamander (*Eurycea tynerensis*) as threatened. A status report of this

species in Missouri was submitted with the petition. An administrative finding that the action requested may be warranted was made on June 20, 1986. The species was already the subject of a status review initiated September 18, 1985 (50 FR 37958). A Federal Register notice announced the 90-day petition finding on January 21, 1987 (52 FR 2240).

The Oklahoma salamander is a neotenic (retaining larval gills throughout its life) member of the family Plethodontidae (lungless salamanders). It is restricted to stream systems and springs in the mountainous areas of northwestern Oklahoma, southwestern Missouri, and northwestern Arkansas. Oklahoma has the largest known distribution (several sites along two river systems); Missouri has 40 recorded localities, and Arkansas has five. Surveys supported by the Missouri Department of Conservation and information furnished by the Arkansas Natural Heritage Program and by Bill Resperman of Oklahoma State University all indicated widespread deterioration of habitat throughout this species' range. Grazing and pollution have reduced the habitat quality at a number of sites, especially in Missouri and Oklahoma. Recent surveys of the Arkansas Heritage Program failed to find Oklahoma salamanders in at least two sites where they formerly occurred. Although general population data is still unavailable, former sites of occurrence that are either polluted or heavily grazed appear to have reduced or no Oklahoma salamander populations.

The action requested by this petition for the Oklahoma salamander was judged to be warranted according to the best information available, but precluded by other pending proposals of higher priority. The Service will continue to evaluate the status of the Oklahoma salamander. Additional data are needed on populations of this species in Oklahoma and Arkansas; the species will therefore be retained in Category 2 of the next comprehensive notice of animal review.

In a petition dated July 20, 1986, and received July 25, 1986, the Service was requested by Alexander R. Brash of the Rutgers University Graduate School, New Brunswick, New Jersey, to list the white-necked crow, *Corvus leucognaphalus* as an endangered species. This bird is in the somewhat unique position of being extirpated, as far as known, from the United States (Puerto Rico), but still extant in the Dominican Republic on the island of Hispaniola. It is, therefore, a foreign species at present, but one that could

conceivably be used in domestic restoration attempts. The petition was accepted as an action that may be warranted in a 90-day finding made in October 1986 and reported in the Federal Register for July 1, 1987 (52 FR 24485).

The information needed to determine the actual status of the white-necked crow in Hispaniola is not yet available. As a foreign species the priority for seeking the necessary data is somewhat lower than that accorded domestic species, while at the same time costs to obtain the data are expected to be higher. The evidence presented by this petitioner is not adequate alone to justify a decision to list the species. At this time, however, the best scientific and commercial information available support a finding that the action requested is warranted, but precluded by work on other species judged to be in greater need of protection.

A petition submitted by Mr. Rodney Bartgis and Mr. D. Daniel Boone of the Maryland Natural Heritage Program was dated July 22, 1986, and received by the Service on August 13, 1986. It requested the Service to list the Appalachian Bewick's wren, *Thryomanes bewickii altus*, as endangered. The petition acknowledged that not all authorities agree on the exact geographic limits of the various subspecies of this wren, but included extensive documentation that a definable Appalachian population is nearly extirpated from the few remaining States in which it has been reported since 1980. This petition was accepted as an action that may be warranted in a 90-day finding made in November 1986 and reported in the Federal Register for July 1, 1987 (52 FR 24485).

Subsequent review of the data on Bewick's wren in the eastern United States indicates that the action requested by this petitioner is warranted. An immediate rule to propose this species for listing is precluded by work on other species judged to be in greater need of protection. It has, however, been accorded a high priority within the Service's priority ranking system.

Progress in Revision of the Lists

Section 4(b)(3)(B)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. The Service's progress in revising the lists in the year following October 1, 1986, the cutoff date of the previous report, is described below. For simplification in reporting, the 12-month period described

actually coincides with the 1987 fiscal year; activity during the last 12 days preceding the anniversary of the Amendments will be described in a subsequent notice. The described activities prevented immediate action on the "warranted but precluded" petitioned actions.

The Service's progress in revising the lists during fiscal year 1987 is represented by the publication in the Federal Register of final listing actions on 52 species, and proposed listing actions on 46 species. The number of species affected by each type of listing action published during this period is presented in Table 2.

TABLE 2.—LISTING ACTIONS TAKEN DURING THE PERIOD OCTOBER 1, 1986, THROUGH SEPTEMBER 30, 1987

Type of action	Number of species affected
Final endangered status	36
Final threatened status	15
Final reclassification to threatened due to similarity of appearance to a listed species	1
Proposed endangered status	31
Proposed threatened status	11
Proposed critical habitat	1
Proposed delisting	1
Proposed reclassification from endangered to threatened	2
Total	98

As of October 1, 1987, the Service's Division of Endangered Species and Habitat Conservation was also reviewing draft documents that would propose or make final listing actions on 37 species. The types of action and numbers of affected species are given in Table 3.

TABLE 3.—SUMMARY OF POTENTIAL LISTING ACTIONS NOT FINALIZED BUT UNDER ACTIVE REVIEW AS OF THE END OF THE REPORTING PERIOD

Type of action	Number of species affected
Final endangered status	10
Final threatened status	9
Final delisting	1
Proposed endangered status	11
Proposed threatened status	4
Proposed change from endangered to threatened status	1
Proposed experimental population	1
Total	37

The general plant and animal notices of review are important tools for gathering data on species that are

candidates for listing and for informing interested parties on the Service's general views on the status of present and past candidate species. The Service is currently preparing a general notice of review for animals, to include both vertebrate and invertebrate species. The most recent previous general notices were for plants on September 27, 1985 (50 FR 39526), for vertebrate animals on September 18, 1985 (50 FR 37958), and for invertebrate animals on May 22, 1984 (49 FR 21664).

Author

This notice was prepared by George Drewry, Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1975 or FTS 235-1975).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (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); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

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

Dated: June 27, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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