
DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife
and Plants; Finding on Desert Tortoise
Petition****AGENCY:** Fish and Wildlife Service,
Interior.**ACTION:** Notice of petition finding.

SUMMARY: The Service announces its 12-month finding on the petition to list the desert tortoise as an endangered species. A finding was made that listing of the desert tortoise throughout its range is warranted, but precluded by other pending proposals of higher priority. Additional data are being gathered and existing data are being further evaluated.**DATE:** The finding announced in this notice was made on September 18, 1985. The Service continues to seek and accept data on the species on an ongoing basis.

ADDRESSES: Information, comments, or questions should be submitted to the Associate Director-Federal Assistance (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the Service'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, Room 500-Broyhill Building, Washington, D.C. 20240 (703/235-2771 of FTS 235-2771).

SUPPLEMENTARY INFORMATION:

Background

The 1982 Amendments to the Endangered Species Act 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 the requested action is warranted in light of our status review and all other information in our administrative record.

On September 14, 1984, the Service received a petition to list the desert tortoise (*Gopherus agassizii*) as an endangered species throughout its remaining range in Arizona, California, and Nevada (the Beaver Dam slope population of the desert tortoise in Utah was listed as threatened with critical habitat in 1980). The desert tortoise also occurs in adjacent Mexico (Sonora and Sinaloa). The petitioners were Martha L. Stout (Defenders of Wildlife), Faith T. Campbell (Natural Resources Defense Council), and Michael J. Bean (Environmental Defense Fund). A 90-day finding that the petition had presented substantial information indicating that the requested action may be warranted was made on December 14, 1984, and notice of the finding was then published in the April 2, 1985, *Federal Register* (50 FR 13054).

The petitioners submitted the Desert Tortoise Council's 838-page report "The Status of the Desert Tortoise (*Gopherus agassizii*) in the U.S." as supporting information. Following the announcement of the petition in the *Federal Register*, the Service received numerous comments some of which included additional data. The Service reviewed the Desert Tortoise Council's report, all comments and available data received, and all other data in its files. Involved Federal and State agencies and other parties were also contacted.

The range of the desert tortoise encompasses portions of California, Nevada, Utah, and Arizona in the United States and Sonora and Sinaloa in Mexico (Patterson 1982). The desert tortoise occurs in the Mojave Desert of California, Nevada, Utah, and northern Arizona; the Colorado Desert of California; and the Sonoran Desert of Arizona and Mexico. Desert tortoises are primarily found on flats and bajadas of the Colorado and Mojave deserts, and predominately occur on slopes in the Sonoran Desert (Berry 1984). The desert tortoise is long lived and herbivorous. Individuals do not reach sexual maturity until 12 to 20 years of age (Woodbury and Hardy 1948). The shell does not completely ossify until five or ten years of age (Luckenbach 1982). Female tortoises excavate nests in burrows and lay an average of 4.2 eggs. Females lay an average of 1.89 clutches per year (Turner and Berry 1984). Hatching success of clutches is generally unknown; and hatchlings do not normally receive parental care.

Some desert tortoise populations in the southwestern United States are declining (Bury 1982; Luckenbach 1982; Berry 1984). The degree of the decline varies greatly across the range of the desert tortoise, with highest mortalities and habitat losses occurring in California and Nevada. However, the highest densities remaining occur in California, where some relatively small areas contain over 250 tortoises per square mile. Mortality rates in the western Mojave Desert are estimated to be 18 percent per year. The Colorado Desert populations experience much lower mortality, 2 percent per year. Parts of Nevada show steep declines (Berry 1984). Berry (1984) suggests that Arizona populations are declining because they appear to consist of fragmented populations and are composed predominantly of older individuals. However, Taubert (1985) and Fritts (1985) considered Arizona populations not to be isolated from one another. Although the desert tortoise is declining throughout part of its range, and the species has been extirpated from some areas, other large populations still remain.

The Service believes that for certain areas of the species' range (Arizona and Mexico) additional data are necessary to determine accurately the species' status in that portion of its range; different interpretations of some data (Arizona and Nevada) exist. Consequently, the desert tortoise was kept in Category 2 of the Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species

published in the *Federal Register* on September 18, 1985 (50 FR 37953).

The Service will gather additional data and will further evaluate the existing data on the desert tortoise. Following further evaluation of existing and any new data, the Service will readdress the question of whether the declining populations constitute a significant portion of the species' range. Current information in the Service's files supports a finding that the petitioned action is warranted. However, such a conclusion could change due to the data gaps that presently exist. The Service has the option to list the tortoise throughout its range or list those populations currently facing the highest degree of threat, while studies proceed to resolve existing questions regarding remaining portions of the species' range. If ongoing studies indicate that listing certain populations is not warranted, then a new finding will be made and a notice indicating such will be published in the *Federal Register*.

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. Expeditious progress in listing endangered and threatened species is being made, and is reported annually in the *Federal Register*. The most recent progress report was published on May 10, 1985 (50 FR 19761).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the desert tortoise.

Literature Cited

- Berry, K.H. 1984. The status of the desert tortoise (*Gopherus agassizii*) in the United States. Report to the U.S. Fish and Wildlife Service from the Desert Tortoise Council on Order No. 11310-0083-81.
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- Fritts, T.H. 1985. Ecology and conservation of North American tortoises (genus *Gopherus*). II. Evaluation of tortoise abundance based on tortoise sign detected in field surveys. U.S. Fish and Wildlife Service, Denver Wildlife Research Center, Museum of Southwestern Biology, University of New Mexico.
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- Patterson, R. 1982. The distribution of the desert tortoise (*Gopherus agassizii*). In R.B. Bury, ed. North American Tortoises: Conservation and Ecology. U.S. Department of the Interior, Fish and Wildlife Service. Wildlife Research Report 12.
- Taubert, B.D. 1985. Update of desert tortoise (*Gopherus agassizii*) distribution in Arizona. Arizona Game and Fish Department.
- Turner, F.B. and K.H. Berry. 1984. Population ecology of the desert tortoise. Southern California Edison Company.
- Woodbury, A.M. and R. Hardy. 1948. Studies of the desert tortoise. (*Gopherus agassizii*). Ecol. Monogr. 18:145-200.

Author

This notice was prepared by E. LaVerne Smith, office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975 or FTS 235-1975).

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: November 22, 1985.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

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