

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*, hereafter called "the Act"), 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 (hereafter called "Amendments") required that 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, with substantial scientific or commercial information that the petitioned action may be warranted, on the date of such a finding, i.e. requiring an additional finding to be made within 12 months. This notice reports findings made on or before October 11, 1985, 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 third year following the enactment of the Amendments.

The petitions for which findings are reported here have all received initial (90-day) findings by the Service that they presented substantial scientific or commercial information indicating that the petitioned action may be warranted. Some of these determinations were made and announced in the **Federal Register** before the enactment of the Amendments. A series of such determinations was announced in the **Federal Register** of February 15, 1983 (48 FR 6752). The remainder of the initial findings for petitions considered here were announced in the **Federal Register** on January 16, 1984 (49 FR 1919), on December 18, 1984 (49 FR 49118), or on April 2, 1985 (50 FR 13054).

All species of plants 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 listed individually, were listed 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 are announced in this notice by categories; their application 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 hereby reported by the designation of subcategories 3A, 3B, or 3C for such taxa. Findings of "warranted but precluded" are hereby reported by the designation of category 1.1*, 1**2, 2*, or 2** for such 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 total of 119 plant species placed in categories 1 or 2 in the 1980 notice or the 1983 supplement were found not to warrant listing, as noted in the most recent plant notice. Of those, 8 were named in the petition notice of May 10, 1985 (50 FR 19761), together with two taxa: *Arabis* sp. nov. ined. (Gray Knolls, Uintah Co., Utah), and *Sphaeralcea caespitosa*, that were mentioned as "not warranted" for listing, but were subsequently returned to category 2 for the current notice. A total of 25 other plant taxa that were considered as category 3A, 3B, or 3C in the 1983 supplement are placed in category 1 or 2 in the current notice, as a result of improved status information or an increase in documented threats.

The Service's 12-month findings of "not warranted" and "warranted but

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 on Listing Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on pending petitions and description of progress on listing actions.

SUMMARY: The Service announces its findings on pending petitions to add to and revise the lists of Endangered and Threatened Wildlife 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, 1984, to September 30, 1985.

DATE: The findings announced in this notice were made on or before October 11, 1985. The description of the Service's progress in revising the lists is current as of October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, 500 Broyhill Building, Washington, D.C. 20240 (703/235-2771 or FTS 235-2771).

SUPPLEMENTARY INFORMATION:

precluded" on pending animal petitions are presented in Table 1. Petitioned actions that are found not to be warranted are indicated by the word "No" in the "Warranted?" column. The word "Yes" 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. A "Yes" qualified with an asterisk signifies that at least some taxa mentioned in the petition have been individually found to be not warranted for listing, as described below, in previous petition notices, or in notices of review.

TABLE 1.—LIST OF ANIMAL PETITION FINDINGS ANNOUNCED IN THIS NOTICE

Description	Petitioner	Date received	Warranted?
6 species of sponges.	Mr. Ronald M. Cowden.	June 17, 1974	Yes*
45 species of cave crustaceans.	National Speleological Society.	Sept. 9, 1974	Yes*
6 species of cave amphipod crustaceans.	Dr. John Hoisinger.	July 12, 1974	Yes
Uncompahgre Intertillary butterfly.	Dr. Lawrence F. Gail.	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 ice rat.	Center for Action on Endangered Species.	Mar. 12, 1980	Yes
Bliss Rapids snail.	Dr. Peter A. Bowler.	Feb. 7, 1980	Yes
19 U.S. and 60 foreign species of birds.	International Council for Bird Preservation.	Nov. 24, 1980	Yes*
West's sphinx moth.	Dr. Karolis Bagdas.	Jan. 26, 1981	Yes
Guam rufous-fronted fantail.	Don. Paul M. Calvo, Governor of Guam.	Dec. 23, 1981	Yes
San Francisco tree lupine moth.	Dis. R.A. Arnold and J.A. Powell.	Dec. 21, 1982	No
Orangein madton and Roanoke logperch.	Mr. Noel M. Burkhead.	Oct. 6, 1983	Yes
Woodland caribou in Montana.	Mr. Douglas H. Chadwick.	July 2, 1984	Yes
Coeur d'Alene salamander.	Mr. Thomas P. Koenings.	July 17, 1984	No

TABLE 1.—LIST OF ANIMAL PETITION FINDINGS ANNOUNCED IN THIS NOTICE—Continued

Description	Petitioner	Date received	Warranted?
Gopher tortoise, western populations.	Drs. R. Lohoe-fener and L. Lohmeier.	July 17, 1984	Yes
2 tiger beetles in west Texas.	W.D. Sumlin, III and C.D. Nagano.	July 24, 1984	Yes
American alligator in South Carolina.	South Carolina Wildlife and Marine Resources Department.	July 27, 1984	Yes
Spiny river snail.	American Malacological Union.	Aug. 13, 1984	Yes

* Petitions for which the requested action is considered warranted for all taxa except for certain ones that have been specified in previous petition notices and/or current comprehensive notices of review.

Individual findings for four taxa of birds among the 19 U.S. taxa included in the November 24, 1980, petition from the International Council for Bird Preservation have been changed during the past year by new data, and for those four the requested action is now considered to be "not warranted". They are: Palau Nicobar pigeon (*Caloenas nicobarica pelewensis*), Mariana fruit dove (*Ptilinopus roseicapillus*), Truk monarch (*Metabolus rugensis*), and Palau blue-faced parrotfinch (*Erythrura trichroa pelewensis*). These bring to seven the taxa included in that petition for which listing is not considered warranted. The requested action has been determined to be "warranted but precluded" for the remaining taxa included in the petition, excepting four U.S. taxa that have been proposed and listed as endangered. Readers should refer to a notice of review for 58 foreign bird species published on May 12, 1981 (46 FR 26464), for the names of the foreign species pending for consideration at the time of passage of the Amendments.

The Service's 1984 findings on the petition to list the orangein madtom (*Noturus gilberti*) and the Roanoke logperch (*Percina rex*) were accidentally omitted from mention in the petition notice of May 10, 1985 (50 FR 19761), but were cited in a subsequent notice on July 18, 1985 (50 FR 29238). The current finding on that petition is that the action requested is warranted but precluded by pending proposals to add other species to the Lists of Endangered and Threatened Wildlife and Plants.

A finding of "not warranted" for the 1982 petition from Drs. Richard A. Arnold and Jerry A. Powell to list the

San Francisco tree lupine moth as a threatened species was made by the Service on October 11, 1985. The finding is based on results of a status survey by David Wagner. This study documented the range of the nominate form *Grapholita edwardsiana* to extend in California from Bolinas Lagon, Marin County, south to Salmon Creek, Monterey County, and east into the Berkley Hills. Although many colonies of the moth's foodplant, *lupinus arboreus*, have been adversely affected by development, sand dune stabilization, and introduction of exotic plants, some activities such as road construction have apparently benefited the foodplant and presumably the moth. The category indicated by this information for the next comprehensive invertebrate notice of review is 3C,

signifying a species that is no longer under active consideration by the Service for listing. This determination will be strengthened if the closely related *Grapholita lana* is shown to be synonymous with *G. edwardsiana*, as available data suggest. The range of nominate *G. lana* extends from British Columbia through Washington and Oregon to southern California.

The Service was petitioned July 2, 1984, by Mr. Douglas H. Chadwick to list the woodland caribu (*Rangifer tarandus caribou*) in Montana as endangered. At present, such status is restricted to the southern Selkirk Mountain herd of woodland caribou, which is found only in Idaho, Washington, and British Columbia. Mr. Chadwick provided evidence that caribou, probably members of another herd, also occur, at least on occasion, in northwestern Montana. The petitioner noted that caribou habitat in Montana has been substantially reduced through human activities. Additional status survey work is necessary to determine if there is a population of woodland caribou in northwestern Montana, to establish what relationship, if any, this possible population may have with a Canadian herd to the north, and to evaluate potential caribou habitat to determine if it could support a population now or in the future. The caribou in Montana will be maintained as a category 2 species pending completion of these studies. On July 2, 1985, the Service made a finding of "warranted but precluded" in respect to this petition. Additional data are being gathered and expeditious progress is being made to list other higher-priority species.

The Service was petitioned July 17, 1984, by Thomas P. Koenings to list the Coeur d'Alene salamander, *Plethodon vandykei*, in Montana and Idaho as an

endangered species. A brief report on the status, distribution, and threats to the species was submitted with the petition. The report was accepted as substantial information that the requested action may be warranted. An initial positive finding was made on October 17, 1984, and reported in the *Federal Register* for December 12, 1984 (49 FR 49118). Review of the petition report by several biologists knowledgeable about the habitat requirements and distribution of this species has produced information, however, that contradicts assertions of the report, particularly in respect to any deterioration or loss of habitat or populations. The best information presently available to the Service indicates that the Coeur D'Alene salamander is not now threatened or endangered. On July 26, 1985, the Service made the finding that the action requested by this petition is not warranted by the available information. Additional status survey work with this species has been undertaken by the Idaho Nature Conservancy Natural Heritage Program with logistical support from the Nezperce National Forest. Some possibility exists that future discoveries will require a reappraisal of its status.

The Service was petitioned July 17, 1984, by Dr. Ren Lohofener and Dr. Lynne Lohmeier to list the western populations of the gopher tortoise, *Gopherus polyphemus*, as endangered. On July 26, 1985, the Service made a 12-month finding that the requested action is warranted, nothing, however, that the best scientific and commercial information available indicates the western population of the gopher tortoise is likely to become endangered within the foreseeable future, a status of threatened rather than endangered. An immediate proposed rule to implement the listing action requested is precluded by pending proposals to add other species to the Lists of Endangered and Threatened Wildlife and Plants.

The Service was petitioned July 24, 1984, by W. D. Sumlin, III and Christopher D. Nagano to list Barbara Anne's tiger beetle, *Cicindella politula barbaraannae*, and the Guadalupe Mountains tiger beetle, *Cicindella politula* ssp., of Texas as endangered. The Service has conducted a status review of the information available regarding the biology, distribution, and threats to these two beetles. On July 26, 1985, it made a 12-month finding that the requested action is warranted. An immediate proposed rule to implement the requested action is precluded by pending proposals to add other species

to the Lists of Endangered and Threatened Wildlife and Plants.

In a petition dated July 27, 1984, and received August 15, 1984, the Service was requested by the South Carolina Wildlife and Marine Resources Department to delist the American alligator, *Alligator mississippiensis*, in South Carolina and to treat it as threatened due to similarity of appearance to other endangered crocodylians. At present, the alligator is classified as endangered in some parts of South Carolina and threatened in other parts of the State. Current data indicate that good numbers of alligators are present in productive habitats, and populations are generally productive and well distributed throughout available habitats. The Service has already recognized the recovered status of the American alligator in a majority of its occupied range (12,000,000 acres or 84%) through delisting and treating as threatened due to similarity of appearance in Louisiana, Texas, and Florida. On August 15, 1985, the Service made the finding that the action requested by this petition is warranted on the basis of information available at this time. An immediate proposed rule to implement the requested action is precluded by pending proposals to add other species to the Lists of Endangered and Threatened Wildlife and Plants.

In a petition dated August 13, 1984, and received August 22, 1984, the Service was requested by the American Malacological Union to list the spiny river snail (*Io fluviatilis*) as an endangered or threatened species. The range of the spiny river snail has apparently been reduced from much of the Tennessee River system to three tributary rivers, the Nolichucky River in Tennessee, the Clinch River in Virginia and Tennessee, and the Powell River in Virginia and Tennessee. It has been reintroduced into the North Fork Holston River, but has evidently failed there in several years to establish a self-reproducing population. The species was proposed for listing in 1977 (42 FR 2507) but the proposed rule was withdrawn for procedural reasons in 1979. Additional data have been collected subsequently, including a detailed survey by Dr. Richard Neves of the Service's Cooperative Fisheries Unit at Virginia Tech University and the data submitted with the subject petition from the American Malacological Union. The Nolichucky River population is extremely small and is imminently threatened by residue from mica mining that has nearly filled Davy Crockett Lake, a reservoir that is immediately upstream from the habitat. The Powell

River population has been greatly reduced by sedimentation and acid mine drainage from coal mining. The Clinch River holds the only populations not facing immediate major threats, although local extirpation has been documented from sewage treatment plant effluents and industrial waste spills. The Service, on August 23, 1985, found that the action requested in this petition is warranted but precluded by pending proposals to add other species to the Lists of Endangered and Threatened Wildlife and Plants.

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 12, 1984, the cutoff date of the previous report, is described in this section of the present notice. For simplification in reporting, the 12-month period described actually coincides with the 1985 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 in the "warranted but precluded" petitioned actions.

The Service's progress in revising the lists during fiscal 1985 is represented by the publication in *Federal Register* of final listing (56), delisting (4), and reclassification (1) actions on 61 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 DURING THE PERIOD OCT. 1, 1984, THROUGH SEPT. 30, 1985

Type of action	Number of species affected
Final endangered status with critical habitat.....	18
Final endangered status.....	18
Final threatened status with critical habitat.....	10
Final threatened status.....	10
Final change from threatened to threatened due to similarity of appearance.....	1
Final removal from lists.....	4
Proposed endangered status with critical habitat.....	2
Proposed threatened status with critical habitat.....	4
Proposed endangered status.....	36
Proposed threatened status.....	4

As of October 1, 1985, the Service's Washington Office of Endangered Species was also reviewing documents that would propose or make final listing actions on 41 species. The type of action and numbers of affected species are

given in Table 3.

TABLE 3.—POSSIBLE LISTING ACTIONS FOR WHICH THE SERVICE WAS REVIEWING DRAFT DOCUMENTS ON OCT. 1, 1985

Type of action	Number of species affected
Final endangered status with critical habitat.....	2
Final endangered status.....	9
Final threatened status with critical habitat.....	4
Final threatened status.....	2
Final designation of critical habitat.....	1
Proposed endangered with critical habitat.....	2
Proposed threatened with critical habitat.....	2
Proposed endangered status.....	11
Proposed threatened status.....	7
Proposed change from endangered to threatened status.....	1

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. A general notice on vertebrate animals was published on September 18, 1985 (50 FR 37958). A general notice on plants was published on September 27, 1985 (50 FR 39526). A general notice on invertebrate animals is in preparation.

The Service also funded status surveys for 141 species during the 1985 fiscal year. These surveys are designed to gather any additional data needed to make a determination on whether the subject species are eligible for protection under the Act.

Author

This notice was prepared by Dr. George Drewry, Office of Endangered Species, 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 (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: December 30, 1985.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-448 Filed 1-8-86; 8:45 am]

BILLING CODE 4310-55-M