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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2013–0117; MO 92210–0–0008 B2]

RIN 1018–BA27

Endangered and Threatened Wildlife and Plants; Threatened Status for *Lepidium papilliferum* (Slickspot Peppergrass) Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reconsideration of final rule; reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the reconsideration of our final rule listing *Lepidium papilliferum* (slickspot peppergrass) as a threatened species throughout its range under the Endangered Species Act of 1973 (ESA or Act), published February 12, 2014. We published the reconsideration of the final rule in response to the Idaho District Court's remand because the Court asked us to reconsider the definition of the "foreseeable future" in regard to this particular

species. We are seeking input on our interpretation of the foreseeable future as it pertains specifically to *L. papilliferum*. In addition, we also seek any new information regarding population status, trends, or threats that has become available since our last review of the status of the species in 2009. We are reopening the comment period to allow all interested parties an additional opportunity to comment. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of our final determination.

DATES: We are reopening the comment period on the revised proposed rule published in the Federal Register on February 12, 2014 (79 FR 8416). In order to fully consider and incorporate public comment in the final determination, we request submission of comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on that date.

ADDRESSES: *Document availability:* You may obtain copies of the reconsideration of final rule on the Internet at <http://www.regulations.gov> at Docket No. FWS–R1–ES–2013–0117, or by mail from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Comment submission: You may submit written comments by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Search for FWS–R1–ES–2013–0117, which is the docket number for this rulemaking. You may submit a comment by clicking on “Comment Now!”

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2013–0117; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Mike Carrier, State Supervisor, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; telephone 208–378–5243; facsimile 208–378–5262. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our reconsideration of the final rule listing *Lepidium papilliferum* (slickspot peppergrass) as a threatened species throughout its range that was published in the **Federal Register** on February 12, 2014 (79 FR 8416). Any final action regarding the listing of *L. papilliferum* will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, general public, and other interested

parties concerning the reconsideration of the final listing rule and our interpretation of the foreseeable future as it applies specifically to *L. papilliferum*. We particularly seek comments regarding:

(1) Our interpretation of the term “foreseeable future” and its application to our evaluation of the status of *Lepidium papilliferum*;

(2) Our evaluation of new scientific information concerning the range, distribution, population size and trends, and threats to the species that has become available since publication of the 2009 final listing rule;

(3) Our choice of the threshold of 80 to 90 percent loss of remaining unburned habitat as the point at which the species will be in danger of extinction;

(4) Any additional scientific information concerning the range, distribution, population size and trends, or threats to the species that has become available since publication of the 2009 final listing rule that we have not already presented and considered; and

(5) Current or planned activities in the subject area that were not analyzed in the 2009 final listing rule and their possible effect on this species.

We will consider all comments and information received during the comment period on this rulemaking during our preparation of a final determination. Comments previously submitted on the proposed listing of *Lepidium papilliferum* during any of the previous comment periods need not be resubmitted; they have already been incorporated into the public record and will be fully considered in the final decision.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to

whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include. In making a final decision on this matter, we will take into consideration the comments and any additional information we receive. Comments and materials received, as well as some of the supporting documentation used in the preparation of a final decision, will be available for public inspection on <http://www.regulations.gov>. All information we use in making our decision is available by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; telephone 208–378–5243; facsimile 208–378–5262 (see **FOR FURTHER INFORMATION CONTACT**).

Background

On October 8, 2009 (74 FR 52014), we published a final rule listing the plant *Lepidium papilliferum* (slickspot peppergrass) as a threatened species throughout its range under the Act.

On November 16, 2009, Idaho Governor C. L. “Butch” Otter, the Idaho Office of Species Conservation, Theodore Hoffman, Scott Nicholson, and L.G. Davison & Sons, Inc., filed a complaint in the U.S. District Court for the District of Columbia challenging the 2009 final listing rule under the Administrative Procedure Act and the Endangered Species Act.

Subsequently, the issue was transferred to the U.S. District Court for the District Court of Idaho. On August 8, 2012, the Court vacated the final rule listing *Lepidium papilliferum* as a threatened species under the Act, with directions that the case be remanded to the Service for further consideration consistent with the Court’s opinion. *Otter v. Salazar*, Case No. 1:11-cv-358-CWD (D. Idaho).

The reconsideration of final rule that published on February 12, 2014 (79 FR 8416), constitutes our response to the issue remanded by the Court. In that document, we presented our interpretation of the term “foreseeable future” as it applies specifically to *Lepidium papilliferum*. Further, in applying our interpretation of the foreseeable future to the status evaluation for *L. papilliferum*, we concluded that threatened status should be reinstated for the species throughout its range. We initially opened a 30-day comment period in association with our reconsideration of the final rule listing *Lepidium papilliferum* as a threatened species; that comment period ended on March 14, 2014 (79 FR 8416). On February 13, 2014, we received a request from the Idaho Governor’s Office of Species Conservation to extend the comment period an additional 45 days. We are reopening the comment period to allow the public additional opportunity to provide input on our reconsideration of the final listing rule and our interpretation of the foreseeable future as it applies specifically to *L. papilliferum*.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 7, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

Billing Code 4310-55

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