



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Three Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of a status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on three petitions to add species to the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act), or to revise the critical habitat designation for a listed species. Based on our review, we find that of the two petitions to add species to the list, one presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate a review of the status of Mojave poppy bee (*Perdita meconis*) to determine whether the petitioned action is warranted. To ensure that the status review is comprehensive, we are requesting scientific and commercial data and other information regarding that species. Based on the status review, we will issue a 12-month petition finding, which will address whether or not the petitioned action is warranted, in accordance with the Act. We find that the second petition to add a species to the list does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, we are not initiating a status review of Yellowstone National Park bison (population of *Bison bison bison*) in response to the petition. We refer to this finding as a “not substantial” petition finding. Lastly, we find that the third petition—a petition to revise the critical habitat designation for the

currently listed Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*)—presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, we announce that we plan to determine how we will proceed with the request to revise a critical habitat designation for the species.

DATES: These findings were made on [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. As we commence work on the status review, we seek any new information concerning the status of, or threats to, the species or its habitat. Any information received during our work on the status review will be considered.

ADDRESSES: *Supporting documents:* Summaries of the bases for the petition findings contained in this document are available on <http://www.regulations.gov> under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status review and critical habitat review: If you have new scientific or commercial data or other information concerning the status of, or threats to, the species for which we are initiating a status review, or information concerning the critical habitat of the species for which we are initiating a review of the critical habitat designation, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the appropriate docket number (see Tables 1 and 2 under **SUPPLEMENTARY INFORMATION**). Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment Now!” If your

information will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy*: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see Tables 1 and 2 under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us.

Not-substantial petition finding: A summary of the basis for the not-substantial petition finding contained in this document is available on <http://www.regulations.gov> under the appropriate docket number (see Table 3 under **SUPPLEMENTARY INFORMATION**). This supporting information is also available for public inspection, by appointment, during normal business hours, by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. If you have new information concerning the status of, or threats to, this species or its habitat, please submit that information to the appropriate person.

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
Mojave poppy bee	Glen Knowles, 702–515–5230; glen_knowles@fws.gov
Mount Graham red squirrel	Jeff Humphrey, 602–242–0210; jeff_humphrey@fws.gov
Yellowstone National Park bison	Marjorie Nelson, 303–236–4258; marjorie_nelson@fws.gov

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists) in 50 CFR part 17, as well as for designating and revising critical habitat for listed species.

For Petitions to Add or Remove Species from the Lists, or Change the Listed Status of a Species

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the Lists (“list” a species), remove a species from the Lists (“delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (“reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

For petitions to add, remove, or reclassify a species, our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to “credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted” (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C 1531 *et seq.*).

The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition

must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats or the effects of threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition to add, remove, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires us to promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

For Petitions to Revise Critical Habitat

Section 4(b)(3)(D) of the Act requires that we make a finding on whether a petition to revise a critical habitat designation presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we

are to make this finding within 90-days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

For petitions to revise critical habitat, our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to “credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the revision proposed in the petition may be warranted” (50 CFR 424.14(i)(1)(i)).

In determining whether a revision of critical habitat may be warranted, we may consider the following:

(1) Areas that the current designation does not include that should be included, or includes that should no longer be included, and any benefits of designating or not designating these specific areas as critical habitat;

(2) The physical or biological features essential for the conservation of the species and whether they may require special management considerations or protection;

(3) For any areas petitioned to be added to critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas contain one or more of the physical or biological features (including characteristics that support ephemeral or dynamic habitat conditions) that are essential to the conservation of the species, or that these features do not require special management considerations or protection;

(4) For any areas petitioned for removal from currently designated critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas do not contain the physical or biological features (including

characteristics that support ephemeral or dynamic habitat conditions) that are essential to the conservation of the species, or that these features do not require special management considerations or protection; and

(5) For areas petitioned to be added to or removed from critical habitat that were outside the geographical area occupied by the species at the time it was listed, information indicating why the petitioned areas are or are not essential for the conservation of the species.

If we find that a petition to revise critical habitat presents substantial scientific or commercial information indicating that the requested revision may be warranted, section 4(b)(3)(D)(ii) of the Act requires us to determine how to proceed with the requested revision.

Summaries of Petition Findings

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on <http://www.regulations.gov> under the appropriate docket number.

Table 1: Status review.

Common name	Docket no.	URL to Docket on http://www.regulations.gov
Mojave poppy bee	FWS-R8-ES-2019-0083	https://www.regulations.gov/docket?D=FWS-R8-ES-2019-0083

Table 2: Critical habitat review.

Common name	Docket no.	URL to Docket on http://www.regulations.gov
Mount Graham red squirrel	FWS-R2-ES-2019-0084	https://www.regulations.gov/docket?D=FWS-R2-ES-2019-0084

Table 3: Not-substantial petition finding.

Common name	Docket no.	URL to Docket on http://www.regulations.gov
Yellowstone	FWS-R6-ES-2019-0085	https://www.regulations.gov/docket?D=FWS-

Evaluation of a Petition to List the Mojave Poppy Bee

Species and Range

Mojave poppy bee (*Perdita meconis*); Nevada.

Petition History

On October 17, 2018, we received a petition from the Center for Biological Diversity, requesting that the Mojave poppy bee be listed as endangered and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c).

This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Mojave poppy bee due to potential threats associated with the following: grazing, recreation, and gypsum mining (Factor A); and competition with nonnative honey bees (Factor E). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R8–ES–2019–0083 under Supporting Documents.

Evaluation of a Petition to Revise the Critical Habitat Designation for the Mount Graham Red Squirrel

Species and Range

Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*); Arizona.

Petition History

On December 14, 2017, we received a petition from the Center for Biological Diversity requesting that critical habitat for the Mount Graham red squirrel be revised under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

The Mount Graham red squirrel is a small, grayish-brown arboreal subspecies that is tinged rusty or yellowish along the back and occurs in high-elevation forests down to approximately 7,500 feet (2,286 meters) in the Pinaleño Mountains, Graham County, Arizona. On January 5, 1990, we published a final rule in the *Federal Register* (55 FR 425) designating critical habitat in three units of dense stands of mature spruce-fir forest, for a total of about 2,000 acres (800 hectares).

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that revising critical habitat for the Mount Graham red squirrel may be warranted. Our conclusion is based primarily on new information indicating significant changes to the forest currently designated as critical habitat and regarding the squirrel's use of habitat previously considered to be of lesser importance.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R2–ES–2019–0084 under Supporting Documents.

Evaluation of a Petition to List the Yellowstone National Park Bison

Species and Range

Plains bison (population of *Bison bison bison*); in and around Yellowstone National Park in Idaho, Montana, and Wyoming.

Petition History

On November 14, 2014, we received a petition from Western Watersheds Project and Buffalo Field Campaign, requesting that Plains bison in and around Yellowstone National Park (Yellowstone National Park bison) be listed as an endangered or threatened distinct population segment (DPS) under the Act (first petition). The first petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). On March 2, 2015, we received a second petition from James Horsley, which also requested that Yellowstone National Park bison be listed as endangered or threatened under the Act (second petition). On January 12, 2016, we published a 90-day finding in the *Federal Register* (81 FR 1368) concluding that the two petitions did not provide substantial scientific or commercial information indicating that the petitioned actions may be warranted. On September 26, 2016, petitioners from the first petition, along with a third party (Friends of Animals), brought suit under the Endangered Species Act and the Administrative Procedure Act asserting that our determination was arbitrary and capricious. On January 31, 2018, the Court remanded the case for the Service to conduct a new 90-day finding. On March 16, 2018, we received a new petition from James Horsley, requesting emergency listing for Yellowstone National Park bison (third

petition). The third petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses all three petitions.

Finding

Based on our review of the petitions and sources cited in the petitions, we find that the petitions do not present substantial scientific or commercial information indicating the petitioned action may be warranted for Yellowstone National Park bison. Because the petitions do not present substantial information indicating that listing Yellowstone National Park bison may be warranted, we are not initiating a status review of this species in response to the petitions. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Yellowstone National Park bison or its habitat at any time (see *Not-substantial petition finding* under **ADDRESSES**, above).

The basis for our finding on these petitions, and other information regarding our review of the petitions, can be found as an appendix at [http:// www.regulations.gov](http://www.regulations.gov) under Docket No. FWS–R6–ES–2019–0085 under Supporting Documents.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for the Mojave poppy bee and Mount Graham red squirrel present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating a status review of the Mojave poppy bee to determine whether the action is warranted under the Act. At the conclusion of the status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned action is not

warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species. In addition, we are initiating a review of the critical habitat designation for the Mount Graham red squirrel to determine whether revising the designation is warranted. At the conclusion of the review, we will issue a finding, in accordance with section 4(b)(3)(D)(ii) of the Act, and we will determine how to proceed.

Lastly, we have determined that the petitions summarized above for Yellowstone National Park bison do not present substantial scientific or commercial information indicating that the requested action may be warranted. Therefore, we are not initiating a status review for Yellowstone National Park bison.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

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

Dated: August 29, 2019

Stephen Guertin
*Deputy Director,
U.S. Fish and Wildlife Service,
Exercising the Authority of the Director,
U.S. Fish and Wildlife Service.*

Billing Code: 4333-15

[FR Doc. 2019-19226 Filed: 9/5/2019 8:45 am; Publication Date: 9/6/2019]