DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2026–0299; FXES1111090FEDR–267–FF09E21000]

Endangered and Threatened Wildlife and Plants; 12-Month Not-Warranted Finding for the Temblor Legless Lizard

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Temblor legless lizard (*Anniella alexanderae*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). The Temblor legless lizard inhabits the eastern foothills of the Temblor and Diablo ranges of California, along with adjacent portions of the San Joaquin Valley floor. After a thorough review of the best available scientific and commercial information, we find that listing the Temblor legless lizard as an endangered or threatened species is not warranted at this time. However, we ask the public to submit to us at any time any new information relevant to the status of the Temblor legless lizard or its habitat.

DATES: The finding in this document was made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A detailed description of the basis for this finding is available on the internet at https://www.regulations.gov under Docket No. FWS–R8–ES–2026–0299. Supporting information used to prepare this finding is also available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office. Please submit any new information, materials, comments, or questions concerning this finding to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Kim Turner, Acting Field Supervisor, Sacramento Fish and Wildlife Office, 916–414–6606, kim_s_turner@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq*.), we are required to make a finding on whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted ("12-month finding"). We must make a finding that the petitioned action is: (1) not warranted; (2) warranted; or (3) warranted but precluded by other listing activity. We must publish a notification of the 12-month finding in the *Federal Register*.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines "species" as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any

of the following factors:

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

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 negatively affect individuals of a species. 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) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all 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 will have positive effects on the

species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; "M-Opinion," available online at https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf). The foreseeable future extends as far into the future as the Service can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Temblor legless lizard meets the Act's definition of an "endangered species" or a "threatened species," we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information for the species. Our evaluation included information from recognized experts; Federal and State governments; academic institutions; and private

entities.

In accordance with the regulations at 50 CFR 424.14(h)(2)(i), this document announces our not-warranted finding on a petition to list the Temblor legless lizard. We have also elected to include a brief summary of the analysis on which this finding is based. We provide the full analysis, including the reasons and data on which the finding is based, in the decisional file for the Temblor legless lizard. The following is a description of the documents containing this analysis.

The species assessment form for the Temblor legless lizard contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that the species does not meet the Act's definition of an "endangered species" or a "threatened species." To inform our status review, we completed a species status assessment (SSA) report for the species. The SSA report contains a thorough review of the taxonomy, life history, ecology, current status, and projected future status for the Temblor legless lizard. This supporting information can be found on the internet at https://www.regulations.gov under the Docket No. FWS–R8–ES–2026–0299.

Previous Federal Actions

On October 20, 2020, we received a petition from the Center for Biological Diversity to list the Temblor legless lizard as an endangered or threatened species and designate critical habitat under the Act. On June 17, 2021, we published a 90-day finding (86 FR 32241) that the petition contained substantial information indicating listing may be warranted for the species. This document constitutes our 12-month finding on the October 20, 2020, petition to list Temblor legless lizard under the Act.

Summary of Finding

The Temblor legless lizard (lizard) is a thin, snake-like reptile found in the eastern foothills of the Temblor and Diablo ranges of California, along with adjacent portions of the San Joaquin Valley floor west of Interstate 5 (Rose et al. 2022, p. 16). Its range is long and narrow

(approximately 90 miles by 8 miles (145 kilometers by 13 kilometers)) and runs through western portions of Kern, Kings, and Fresno Counties, as well as a small section of eastern San Luis Obispo County.

The Temblor legless lizard burrows through relatively loose, well-drained substrate and has been observed at depths of 1 to 24 inches. Individuals require soil with sufficient moisture in at least some accessible layer of substrate to survive and feed successfully. Areas near intermittent and ephemeral streams often provide particularly good habitat, because such areas are more likely to have loose soils and necessary moisture levels. Individuals need arthropod prey populations and microhabitat structures (including leaf litter, overhanging vegetation, and larger root systems of trees and shrubs) that provide shade, hiding places, and prey of various small invertebrates.

To maintain overall viability, the Temblor legless lizard requires sufficient resiliency, redundancy, and representation. Resiliency is the ability of a species to sustain populations through the natural range of favorable and unfavorable conditions. Redundancy is the ability of a species to withstand catastrophic events. Representation is the ability of a species to adapt to both near-term and long-term changes in its physical and biological environments (adaptive capacity). To achieve sufficient resiliency, generally the Temblor legless lizard needs one or more populations of sufficient size and growth rate to allow for recovery from common environmental fluctuations, such as normal variation in precipitation from year to year. The Temblor legless lizard needs to be distributed across its entire range to maximize redundancy. Maintaining sufficient representation in the form of genetic and ecological diversity is necessary to maintain the adaptive capacity of the Temblor legless lizard to future environmental changes. Habitat connectivity also increases representation, by allowing such differences in genetic diversity to spread through the population via dispersal and interbreeding as needed if the general environment changes.

We considered whether it was appropriate to separate the range of the Temblor legless

lizard into different analytical units to account for local habitat differences, local adaptations, or separately interbreeding populations. The known range is small, and areas with loose substrate and overhanging, well-rooted vegetation occur throughout. While there have been fewer records in the central portion of the range, this is solely due to lack of access to private land. Therefore, because potential habitat occurs throughout the known range and we have occurrence data across the known range, lizards appear to be distributed throughout the entire known range. Additionally, there are no data to indicate that there are any areas with lizards with unique markings, behaviors, or genetics. Mitochondrial DNA variation across the range is low (Parham et al. 2019, pp. 17–18), suggesting recent interbreeding. While there is the potential for there to be multiple populations across the range that are separated by barriers such as roads or patches of unsuitable habitat, we do not have information on population structure at this time. Lizards may be able to cross potential impediments to dispersal such as roads by following the sandy soils in and near intermittent or ephemeral streams, and either crawling through or being washed through culverts or under bridges. Accordingly, after a review of the best available information, we are treating the entire range as a single analytical unit.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Temblor legless lizard. We have evaluated all available information relevant to the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. Development (Factor A) and increased temperature, drought, and flooding (Factor E) are the primary threats to the species. Oil and gas development, urbanization, and agricultural development (conversion to orchards or row crops) all remove available habitat needed by the lizard and may also interfere with the lizard's hunting success. For example, drilling, pumping, and fluid injections (including fracking) produce powerful ground vibrations that could overwhelm the lizard's ability to locate its prey by listening for their movements from below the surface. Spills of oil, wastewater, or both can result in loss of habitat, and can also sicken or kill lizards directly. Development of solar plants is also

a potential issue in parts of the range. Increased temperature and drought could result in drier, hotter substrate and in loss of shrubs and associated shade, leaf litter, and invertebrate prey. Hotter and drier weather could also lead to increased, or more severe, wildfires, which could kill lizards directly and remove additional shrubbery and leaf litter. Warmer temperatures can also result in changes to flooding patterns and magnitudes.

As stated above, the Temblor legless lizard population functions as a single unit, and the threats affect the species such that it has similar extinction risk throughout its entire range. We acknowledge that higher levels of development have occurred in the northern and southern areas within the range of the species; however, because of the extensive network of streams and washes that provide connectivity and avenues for dispersal, any individual lizards that may be affected by development could disperse to other areas by using the network of streams and washes. Further, warmer temperatures, drought, and increased flooding are expected to impact the entire species' range because it is a relatively small area. Therefore, all individuals would be impacted by any potential threat to the lizard, and thus there are no threats impacting the species' such that there is a different extinction risk across the species' range. We found no way to divide this species' range at a scale that is biologically appropriate for a classification determination (i.e., no possible portion to evaluate). Therefore, we assessed the Temblor legless lizard's status for both the endangered species and threatened species classifications based upon the "throughout all of its range" component.

The population size, population growth rate, and effective population size (an indication of ability to avoid inbreeding depression) of the Temblor legless lizard are unknown. Therefore, we used a habitat assessment (habitat quantity and quality) to characterize resiliency of the lizard. Since 1986, less than 5 additional percent of the lizard's range has been developed, leaving 14.7 percent in agriculture, 10.2 percent in oil or urban development, and 71.3 percent potentially suitable habitat (grasslands and shrublands). The extent of shrublands (the most suitable habitat type) has increased by about 5.5 percent since 1986. Further, there is some

evidence that lizards can successfully occupy and hunt in areas that are relatively close to ground-disturbing activities such as oil drilling and landfill maintenance. Floodwaters are likely to be channeled, leaving many lizards outside flooded areas and giving lizards at the edges of such areas places to which they can retreat. Therefore, current resiliency appears sufficient to allow the species to withstand normal environmental fluctuations. Although the species' range is relatively small, the occurrences found and the distribution of likely habitat suggest the species is distributed across the entire range, and therefore, most local catastrophic events (i.e., drought, flooding, or oil/wastewater spills) would be unlikely to impact the entire species. Flooding and oil or wastewater spills are also channeled and localized by topographic features, thereby limiting their impacts. Droughts can affect the entire range, but the species has weathered major droughts (including two in the last 20 years). The species' redundancy thus appears sufficient to allow recovery from catastrophic events. Representation in the species is inherently low due to the lack of known genetic, morphological, or habitat differences that would help it adapt to environmental change, but the species does have the ability to "shift in space" and burrow deeper into soils to avoid warmer temperatures.

In summary, current resiliency appears sufficient to allow the species to withstand normal environmental fluctuations, due to the continuing presence of high percentages of potentially suitable habitat across the range. Although the species' range is relatively small, the occurrences found and the distribution of likely habitat suggest the species is distributed across the entire range, and therefore, most local catastrophic events (i.e., drought, flooding, or oil/wastewater spills) would be unlikely to impact the entire species. Because the species is a narrow endemic (found only in one small area), representation is inherently limited due to the lack of known genetic, morphological, or habitat differences. After considering its resiliency, redundancy and representation, we find that the species is not currently in danger of extinction.

Thus, we proceed with determining whether the species is likely to become endangered within the foreseeable future throughout all of its range (i.e., threatened). To characterize the

future condition of the species, we established two plausible future scenarios, which include the best available information for future projections of population resiliency (Service 2025, pp. 32–33). The scenarios included an alternative with lesser impacts (Scenario 1) and an alternative with greater impacts (Scenario 2). We expect the actual course of future events to run somewhere between the two alternatives. For both scenarios, we quantitatively evaluated historical vs. future distribution of potentially suitable habitat based on future urban, agricultural, and oil development projections through 2075 and also considered habitat impacts likely to result from changes to climate under Representative Concentration Pathway (RCP) trajectories 4.5 (Scenario 1) and 8.5 (Scenario 2) (IPCC 2014, p. 21) out to 2100. We also conducted qualitative assessments under both scenarios to evaluate other aspects of the threats out to 2075, including oil and wastewater spills, precipitation, and wildfire. These time frames represent the foreseeable future for this species, as they reflect the greater extent of available information regarding how these respective changes will impact the species and its habitat into the future and how the species will respond to those threats, and thus the timeframes for which we could make reasonably reliable predictions.

Under Scenario 1, based on all the factors we considered, resiliency will decrease somewhat but the lizard will likely remain able to recover from environmental fluctuations through 2075. Oil development would cause potentially suitable habitat to decline by 4.5 percent of the range (from the current 71.3 percent of the range (487 sq mi) to 66.8 percent (456 sq mi). Urban and agricultural development is expected under this scenario to be low (1 percent) and to occur in areas that are not currently potentially suitable habitat. This is based on current patterns of negative population growth, losses of agricultural lands, and low acreage of proposed solar plants. Habitat fragmentation is likely to increase somewhat in the oil fields due to oil development, but many such fragments will continue to be connected by intermittent and ephemeral streams, which should serve the lizards both as dispersal habitat and regular habitat. When considering temperature and precipitation-related changes alone, a similar result is

expected through 2100. Redundancy will decrease somewhat as chances of oil spills increase in the oil fields, and catastrophic droughts and floods become more common, but long-term droughts should not be more likely, because precipitation is not projected to decrease. However, the lizard should still be able to recover from such events. Representation will remain limited but is expected to retain some capacity to adapt due to the species' ability to burrow deeper into soil to avoid warmer temperatures.

Under Scenario 2, continued temperature increases across the range will push the tolerance limits of the lizards and may reduce habitat as locations with insufficient shade or moisture are abandoned. Increases in average precipitation and decreases in wildfires will perhaps offset some impacts from temperature increases, and prevent conversion of shrubland to grassland, but this means the impacts of droughts will be greater. Under this scenario, an additional 5 percent of the range will undergo urban, solar energy, or agricultural development, of which 1 percent will occur in areas not considered potentially suitable habitat. Potentially suitable habitat will decrease by 4 percent of the range due to non-oil development. The total loss of potentially suitable habitat from development of all kinds would be 13 percent of the range. Potentially suitable habitat is expected to decrease from the current 71.3 percent of the range (487 sq mi) to 58.3 percent of the range (398 sq mi). Habitat fragmentation is likely to increase in the oil fields, but many such fragments will continue to be connected by ephemeral streams, which should serve the lizards both as dispersal habitat and regular habitat. Overall, resiliency will decline due to oil development and changing environmental conditions, but such changes are unlikely to prevent the species from withstanding stochastic events. Redundancy will also decline under this scenario, due to increased chances of oil spills in the oil fields, and increased chances of flooding and drought across the range. Drought duration should not increase significantly, however, since precipitation will increase. Overall, we do not expect catastrophic events to impact the species such that the entire range would be affected. Representation under this scenario will remain limited, but the species is expected to retain some level of ability to

adapt to changes in its environment because it can burrow deeper into the soil to avoid warmer temperatures. Therefore, after assessing the best available information, we conclude that the Temblor legless lizard does not meet the definition of a threatened species because it is not likely to become endangered within the foreseeable future throughout all of its range.

A detailed discussion of the basis for this finding can be found in the Temblor legless lizard species assessment form and other supporting documents on https://www.regulations.gov under Docket No. FWS–R8–ES–2026–0299 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the *Federal Register* on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the Temblor legless lizard SSA report. We sent the SSA report to four independent peer reviewers and received four responses. Results of this structured peer review process can be found at https://www.regulations.gov under Docket No. FWS–R8–ES–2026–0299 We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Temblor legless lizard to the person specified above under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor the species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References

A complete list of the references used in this petition finding is available in the species assessment form, which is available on the internet at https://www.regulations.gov under Docket

No. FWS–R8–ES–2026–0299 (see **ADDRESSES**, above) and upon request from the field office (see **FOR FURTHER INFORMATION CONTACT**, above).

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Brian Nesvik,
Director,
U.S. Fish and Wildlife Service.

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