Kaulbars, M.M. and R. Freitag. 1993. Geographical variation, classification, reconstructed phylogeny, and geographical history of the *Cicindela sexguttata* group (Coleoptera: Cicindelidae). The Canadian Entomologist 125:267–316.

Knisley, C.B. and J.M. Hill. 1992. Effects of habitat change from ecological succession and human impacts on tiger beetles. Virginia Journal of Science 43:133–142.

Knisley, C.B., T.D. Schultz and T.H. Hasewinkel. 1990. Seasonal activity and thermoregulatory behavior of *Cicindela patruela* (Coleoptera: Cicindelidae). Annals of the Entomological Society of America 83:911–915.

Nagano, C.D. 1980. Population status of the tiger beetles of the genus *Cicindela* (Coleoptera: Cicindelidae) inhabiting the marine shoreline of southern California. Atala 8:33–42.

Pearson, D.L. 1988. Biology of Tiger Beetles. Annual Review of Entomology 33:123–147.

Pearson, D.L. and F. Cassola. 1992. World-wide species richness patterns of tiger beetles (Coleoptera: Cicindelidae): indicator taxon for biodiversity and conservation studies. Conservation Biology 6:376–391.

Author: The primary author of this notice is Carl Benz, Ventura Field Office (see **ADDRESSES** section) (telephone 805/644–1766).

Authority

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

Dated: November 9, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 96–4802 Filed 2–29–96; 8:45 am]

BILLING CODE 4310–55–P

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Fisher in the Western United States as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the fisher (*Martes pennanti*) in the western United States as threatened under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial information indicating that the two fisher populations in the western United States requested to be listed constitute distinct vertebrate population segments. Therefore, the Service makes a negative finding on this petition.

DATES: The finding announced in this document was made on November 22, 1995.

ADDRESSES: Data, information, comments or questions concerning this petition should be submitted to the Western Washington Office, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David C. Frederick, Supervisor (see **ADDRESSES** above), at (360) 753–9440.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.), requires that the Service make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the Federal Register. If the finding is that substantial information was presented, the Service also is required to commence a review of the status of the species involved if one has not already been initiated under the Service's internal candidate assessment process.

On December 29, 1994, a petition to list the fisher (*Martes pennanti*) in the western United States was received by the Service. The petition, dated December 22, 1994, was submitted by D.C. ''Jasper'' Carlton, Director for the Biodiversity Legal Foundation, Boulder, Colorado. The petition requested listing of two fisher populations in the western United States (Washington, Oregon, California, Idaho, Montana and Wyoming) as threatened species. The petition stated that two fisher populations from the Pacific Coast and northern Rocky Mountain areas of the western United States are vulnerable to extirpation due to habitat loss and fragmentation of late-successional and old-growth forests from road construction and logging, threats from direct and incidental trapping, and the effects of small population size.

After a review of the above information, and based on the best scientific and commercial information available, the Service finds the petition does not present substantial information indicating that listing two western United States fisher populations may be warranted.

Historically, fishers ranged from northern British Columbia, Canada, into central California in the Pacific region, and into Idaho, Montana and Wyoming in the Rocky Mountains. In the central United States, fishers may have been distributed as far south as southern Illinois, and in the eastern states, fishers occurred as far south as North Carolina and Tennessee in the Appalachian Mountains (Powell and Zielinski 1994). During the late 1800s and early 1900s, fishers were extirpated over much of their range in both the United States and Canada. Overtrapping and logging are believed to have been the primary cause of that decline (Powell and Zielinski 1994).

Fishers today occur across the Canadian provinces (Banci 1989). In the Pacific States, fishers still occur in the Cascade Range and Okanogan Highlands of Washington State, and are probably still present in the Olympic Mountains (Aubry and Houston 1992). The status of the fisher in Washington is believed to be ''very rare'' although distribution patterns between 1955–1979 and 1980–1991 were similar (Aubry and Houston 1992). Little is known of the status in Oregon, although sightings are extremely rare. Powell and Zielinski (1994) report that fishers have recently been detected by remote camera just west of the Cascade Crest in southern Oregon. In California, the fishers in the Sierra Nevada appear to be isolated from the animals in the northwestern part of the state (Powell and Zielinski 1994). Though the Sierran fishers may be doing well (Powell and Zielinski 1994), California Fish and Game biologists have expressed concern over their long term viability (pers. comm. in Gibilisco 1994). Fishers in northwestern California have apparently remained stable since early in this century, and several researchers suggest this population may have the highest abundance of all the populations in the western United States (Powell and Zielinski 1994) and it may increase in the near future (Gibilisco 1994).

In the Rocky Mountains, fishers occur in central Idaho and northwestern Montana; successful reintroductions have occurred in both states (Gibilisco 1994). Although some reintroductions have been unsuccessful (Powell and Zielinski 1994, Roy 1991), fisher populations in the Rocky Mountains may be more stable than those in the Pacific States (Powell and Zielinski 1994). Fishers are occasionally sighted in Wyoming, but have always been rare (Biodiversity Legal Foundation 1994). Fisher populations have increased in

many areas in the eastern United States since trapping seasons were closed in the 1930s and 1940s over much of the species range, in combination with several successful reintroduction efforts in the eastern and central states. In Canada, fisher are relatively abundant in the eastern provinces; however, in British Columbia (i.e., western Canada), populations are low, and the trapping season has recently been closed (Province of British Columbia, undated).

Under the Act, the Service may list a species that is in danger of extinction (endangered), or likely to become an endangered species within the foreseeable future (threatened) throughout all or a significant portion of its range. The term ''species'' is defined under the Act to include ''subspecies * * * and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature'' (16 U.S.C. 1532 (16)). The Act's legislative history indicates a Congressional intent that populations be listed only ''sparingly'' (Senate Report 151, 96th Congress, 1st Session). On December 21, 1994, the Service and the National Marine Fisheries Service jointly published a draft policy regarding distinct vertebrate population segments (59 FR 65884). In determining whether groups of vertebrate fish or wildlife are distinct population segments, the Service has, consistent with the draft policy, considered whether (1) the population is discrete, and (2) the population is significant to the species as a whole.

The petition requested listing the fisher in the western United States and its two populations: The Pacific Coast and Rocky Mountain populations. The petition claimed that ''fisher in the Pacific Coast and Rocky Mountain states are geographically separate and distinct from each other * * * and from remaining fisher populations to the east in the remainder of the contiguous United States.'' In 1991, the Service viewed the Pacific fisher as ''probably genetically, though not morphometrically distinct from the Rocky Mountain form'' (56 FR 1159).

The best scientific evidence available today indicates that the range of the fisher is contiguous across Canada, with peninsular extensions projecting southward into the United States in the Pacific States, Rocky Mountains, and the central and eastern United States. No evidence was provided by the petitioner to demonstrate that any physical, physiological, ecological, or behavioral factors separate fishers in the western United States from the fishers in the remainder of the species' distribution. Powell and Zielinski (1994) state that the contiguous range of fishers across North America allows free interchange of genes. The petition states that the unsuitable habitat of the Great Plains separates fishers in the western United States from mid-west and northeastern United States populations. However, the continuity of the fisher's range through Canada, and between Canada and the United States, provides for genetic exchange throughout North America.

In the past, the Service questioned whether the Pacific subspecies of the fisher (*Martes pennanti pacifica*) was a distinct subspecies and designated it as a category 2 candidate species for which there was not sufficient information on biological vulnerability and threats to justify a proposed listing. The designation of Category 2 species as candidates has resulted in confusion about the listing status of these taxa. To reduce that confusion, the designation of Category 2 species has been discontinued by the Service. The Service now regards these species as species of concern but not as candidates for listing.

Furthermore, the taxonomic distinctness of fisher subspecies including the Pacific fisher is questionable. Recent literature cited in the petition (Heinemeyer and Jones 1994, Powell and Zielinski 1994) refutes the distinctness of the putative subspecies. Powell and Zielinski (1994) state that ''[t]he continuous range of the fisher across North America, allowing free interchange of genes, is consistent with a lack of valid subspecies.'' The petition does not address the Pacific Coast fishers as a separate subspecies and does not provide new information to support listing those animals either as a subspecies as a distinct population under the Act.

The petition further argues that the Pacific Coast and Rocky Mountain groups of fishers warrant listing based on the Service's precedent with other populations, comparing these groups of fishers with other listed populations such as the woodland caribou (*Rangifer tarandus caribou*), grizzly bear (*Ursus arctos*), bald eagle (*Haliaeetus leucocephalus*) and gray wolf (*Canis lupus*). The petition correctly states that these populations were listed in the lower 48 states despite the fact that the species occur more commonly in Canada and/or Alaska. The Service has listed populations that are delimited by international boundaries within which significant differences in control of exploitation, management of habitat, conservation status or regulatory mechanisms exist. However, in most instances, including those referenced, the population warranted listing throughout the entire range of the species within the conterminous United States. The ''United States population'' was not broken down into subpopulations. As was stated in the petition finding for the North Cascades lynx (*Felis lynx canadensis*) (58 FR 36924), '' '[d]istinct population segments' listed as endangered or threatened species typically consist of: (1) Populations that are reproductively isolated from other members of the species, or (2) the entire United States population of the species.'' The Service is not required to make a decision based solely on the existence of an international boundary through the range of a species. Service policy has allowed for the flexibility to delimit international boundary populations if that listing is in the best interest of the species. In the case of the fisher, the petition did not provide sufficient information concerning the control of exploitation, management of habitat, conservation status or regulatory mechanisms in Canada to allow the Service to make a determination of the appropriateness of delimiting the western United States population of the fisher based on the international boundary between Canada and the United States.

In summary, the Service finds that the petition does not present substantial information indicating that the fishers in the Pacific Coast and Rocky Mountain areas of the western United States are distinct vertebrate population segments listable under the Act. However, because available information indicates fishers have experienced declines in the past, and may be vulnerable to the removal and fragmentation of mature/old-growth habitat and incidental trapping pressure, the Service will continue to treat the entire fisher species (*Martes pennanti*) as a species of concern. Moreover, the Service will continue to accept information on the status and threats to the fisher.

References Cited

Aubry, K. B., and D. B. Houston. 1992. Distribution and status of the fisher (*Martes pennanti*) in Washington. Northwestern Naturalist 73: 69–79.

Banci, V. 1989. A fisher management strategy for British Columbia. Wildlife Bulletin No. B–63.

Powell, R. A. and W. J. Zielinski. 1994. Fisher. *In:* Ruggiero, L. F., K. B. Aubry, S. W. Buskirk, L. J. Lyon, and W. J. Zielinski, eds.; The Scientific Basis for Conserving Forest Carnivores in the Western United States: American Marten, Fisher, Lynx, and Wolverine. USDA Forest Service, General Technical Report RM–254; pp 38–73.

Author: The primary author of this document is Leslie Propp, Western Washington Office (see **ADDRESSES** section).

Authority

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

Dated: November 22, 1995.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–4803 Filed 2–29–96; 8:45 am]

BILLING CODE 4310–55–P

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 12-Month Finding for a Petition To List the Amargosa Toad (Bufo nelsoni) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding on a petition to list the Amargosa toad (*Bufo nelsoni*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information concerning the status of the species, the Service finds that listing of the Amargosa toad is not warranted.

DATES: The finding announced in this document was made on November 9, 1995.

ADDRESSES: Data, information, comments, or questions concerning this notice should be submitted to the State Supervisor, U.S. Fish and Wildlife Service, Nevada State Office, 4600 Kietzke Lane, Building C–125, Reno, Nevada 89502. The petition, findings, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Donna Withers, Staff Biologist, at the above address, or telephone (702) 784–5227.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), 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 within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals. Such 12-month findings are to be published promptly in the Federal Register.

On September 21, 1994, the Service received a petition dated September 19, 1994, to emergency list the Amargosa toad (*Bufo nelsoni*) as an endangered species. The Service's finding that substantial information existed indicating the petitioned action may be warranted was published in the Federal Register on March 17, 1995 (60 FR 15280). A status review was initiated at that time.

The Amargosa toad has been identified as either a category 1 or category 2 species under the Act, since December 30, 1982 (47 FR 58454; 50 FR 37958; 59 FR 58982). The Amargosa toad was a category 1 candidate species with a listing priority of 2 at the time the petition was received by the Service. On July 26, 1995, the Service recommended removal of the Amargosa toad from category 1 candidate status based information obtained during the 1995 status review. The information suggested that the Amargosa toad is more widespread and abundant within the Oasis Valley than previous reports indicated. However, additional information is necessary to adequately determine the status of the species, and conservation efforts have been initiated to remove identified threats.

The Amargosa toad is unique to riparian habitats associated with the Amargosa River, tributary springs of the Amargosa River in Oasis Valley and isolated spring systems near Beatty, Nye County, Nevada. The petition stated that the Amargosa toad was restricted to seven sites within Oasis Valley, and two isolated spring systems, and that these sites are impacted by livestock and feral burro grazing, water diversion, flood control activities, off-road vehicle use, and nonnative species introductions. The petition stated that the Amargosa toad had declined from thousands in 1958 to only 30 individuals in 1994.

Amargosa toads were first collected in 1891 from an unidentified location in Oasis Valley (Stejneger 1893). Between 1931 and 1981, Amargosa toads were observed at only three sites within Oasis Valley and at one isolated spring system, despite intensive searches (Linsdale 1940, Savage 1959, Altig 1981, Altig and Dodd 1987). Thousands of Amargosa toads were observed in June 1958 (Savage 1959). The Amargosa toad was considered severely restricted in distribution and threatened by habitat destruction by 1981 (Altig 1981).

During a 1983 survey, Amargosa toads were observed at 11 sites within Oasis Valley and two isolated spring systems, and assumed present at 14 additional sites, based on statements from area residents and suitability of habitat, even though toads were not observed (Maciolek 1983a, 1983b). Amargosa toad, though restricted to the Oasis Valley and vicinity, was considered well distributed and abundant in 1983 (Maciolek 1983b).

Amargosa toad surveys have been conducted at 20 sites since 1990, but not all sites were visited during each survey or with equal frequency (Hoff 1993, 1994a, 1994b; Clemmer 1995; Heinrich 1995). Available data from the sites surveyed since 1990 suggests that Amargosa toads have been extirpated from one spring and are not as abundant as in previous years at four other springs (Savage 1959; Altig 1981; Maciolek 1983a, 1983b; Hoff 1993; Hoff 1994a, 1994b; Clemmer 1995; Heinrich 1995). At the other 15 sites, however, observations of Amargosa toad adults, juveniles, tadpoles, and eggs have fluctuated but remained relatively constant, and the occurrence of eggs or tadpoles at sites where no adults were observed implies the presence of adults.

Estimates of the size of the adult population of Amargosa toads during 1993 and 1994 vary from 30 toads for each year to 130 and 85 toads for the 2 years, respectively (Hoff 1994a, 1994b; Heinrich 1995). Both estimates were based on direct observations of Amargosa toad adults, juveniles, tadpoles, and egg masses at the same ten sites. The disparity between these estimates may be due to the difficulty inherent in adequately surveying for Amargosa toads.

The available information does not support the petitioner's claim that the Amargosa toad population is severely restricted in both abundance and distribution. Comprehensive Amargosa toad status information is unavailable because not all historically identified habitats have been surveyed since 1983. Information from Oasis Valley residents suggests that Amargosa toads still occupy springs on several private properties not surveyed in recent years.