§ 1149.66 How does the authority head dispose of an appeal?

(a) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment imposed by the ALJ in the initial decision or reconsideration decision.

(b) The authority head will promptly serve each party to the appeal and the ALJ with a copy of his or her decision. This decision must contain a statement describing the right of any person, against whom a penalty or assessment has been made, to seek judicial review.

§ 1149.67 Who represents the NEA on an appeal?

The authority head will designate the NEA's representative in the event of an appeal.

§ 1149.68 What judicial review is available?

Section 3805 of title 31, United States Code, authorizes Judicial review by the appropriate United States District Court of any final NEA decision by the authority head imposing penalties or assessments under this part. To obtain judicial review, you must file a petition with the appropriate court in a timely manner. (See paragraphs (a) through (e) of 31 U.S.C. 3805 for a description of how judicial review is authorized.)

§ 1149.69 Can the administrative complaint be settled voluntarily?

(a) Parties may make offers of compromise or settlement at any time. Any compromise or settlement must be in writing.

(b) The reviewing official has the exclusive authority to compromise or settle the case anytime after the date on which the reviewing official is permitted to issue a complaint and before the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle the case anytime after the date of the ALJ's initial decision until the initiation of any judicial review or any action to collect the penalties and assessments.

(d) The Attorney General has exclusive authority to compromise or settle a case once any judicial review or any action to recover penalties and assessments is initiated.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate.

§ 1149.70 How are civil penalties and assessments collected?

(a) Civil actions to recover penalties or assessments must commence within 3 years after the date of a final decision determining your liability.

(b) The Attorney General is responsible for judicial enforcement of civil penalties or assessments imposed. He/she has exclusive authority to compromise or settle any penalty or assessment during the pendency of any action to collect penalties or assessments under 31 U.S.C. 3806.

(c) Penalties or assessments imposed by a final decision may be recovered in a civil action brought by the Attorney General.

(1) The district courts of the United States have jurisdiction of such civil actions.

(2) The United States Court of Federal Claims has jurisdiction of any civil action to recover any penalty or assessment if the cause of action is asserted by the government as a counterclaim in a matter pending in such court.

(3) Civil actions may be joined and consolidated with or asserted as a counterclaim, cross-claim, or set off by the government in any other civil action which includes you and the government as parties.

(4) Defenses raised at the hearing, or that could have been raised, may not be raised as a defense in the civil action. Determination of liability and of the amounts of penalties and assessments must not be subject to review.

§ 1149.71 Is there a right to administrative offset?

The amount of any penalty or assessment which has become final, or for which a judgment has been entered, or any amount agreed upon in a compromise or settlement, may be collected by administrative offset, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to you.

§ 1149.72 What happens to collections?

All amounts collected pursuant to this part must be deposited as miscellaneous receipts in the Treasury of the United States.

§ 1149.73 What if the investigation indicates criminal misconduct or a violation of the False Claims Act?

(a) Investigating officials may:

(1) Refer allegations of criminal misconduct or a violation of the False Claims Act directly to the Department of Justice for prosecution and/or civil action, as appropriate;

(2) Defer or postpone a report or referral to the reviewing official to avoid interference with a criminal or civil investigation, prosecution or litigation; or

(3) Issue subpoenas under any other statutory authority.

(b) Nothing in this part limits the requirement that NEA employees report suspected false or fraudulent conduct, claims or statements, and violations of criminal law to the NEA Office of Inspector General or to the Attorney General.

§ 1149.74 How does the NEA protect your rights?

These procedures separate the functions of the investigating official, reviewing official, and the ALJ, each of whom report to a separate organizational authority. Except for purposes of settlement, or as a witness or a representative in public proceedings, no investigating official, reviewing official, or NEA employee or agent who helps investigate, prepare, or present a case may (in such case, or a factually related case) participate in the initial decision or the review of the initial decision by the authority head. This separation of functions and organization is designed to assure the independence and impartiality of each government official during every stage of the proceeding. The representative for the NEA may be employed in the offices of either the investigating official or the reviewing official.

Dated: July 30, 2014.

India J. Pinkney,

General Counsel.

[FR Doc. 2014–19034 Filed 8–12–14; 8:45 am]

BILLING CODE 7537–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2014–0026; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Warton's Cave Meshweaver as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 12-month finding on a petition to list the Warton's cave meshweaver (*Cicurina wartoni*) as an endangered or threatened species and to designate critical habitat under the Endangered Species Act (Act) of 1973, as amended. After a review of the

best available scientific information, we find that *C. wartoni* is not a distinct species. Therefore, we find that *C. wartoni* is not a listable entity under the Act and does not warrant listing as an endangered or threatened species. As a result, we are removing this species from the candidate list. However, we ask the public to submit to us any new information that becomes available at any time.

DATES: The finding announced in this document was made on August 13, 2014.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2014–0026. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite #200, Austin, TX 78758. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite #200, Austin, TX 78758; telephone 512–490–0057; facsimile 512–490–0974. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act, 16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, the U.S. Fish and Wildlife Service (Service) make a finding within 12 months of the date of receipt of the petition. In this finding, we determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

The Service identified *Cicurina wartoni* as a candidate for listing in the November 15, 1994, Animal Candidate Review for Listing as Endangered or Threatened Species (59 FR 58982). Candidate species are species for which we have sufficient information on file to support a proposal to list as an endangered or threatened species, but for which preparation and publication of a proposal are precluded by higher priority listing actions. *Cicurina wartoni* was included in subsequent annual Candidate Notices of Reviews through 2013 (59 FR 58982, November 15, 1994; 61 FR 7596, February 28, 1996; 62 FR 49397, September 19, 1997; 64 FR 57534, October 25, 1999; 66 FR 54807, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756, September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; and 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; November 21, 2012, 77 FR 69994; and November 22, 2013, 78 FR 70104).

On May 11, 2004, we received a petition from the Center for Biological Diversity requesting that *Cicurina wartoni* be listed as an endangered or threatened species and that critical habitat be designated under the Act. The petition clearly identified itself as such and included the requisite identification information required at 50 CFR 424.14(a). Even though we already determined the species met the definition of a candidate species, we are required to address petitions and make the appropriate findings. We made a positive 90-day finding that the petition presented substantial information indicating that listing may be warranted, and we subsequently made a positive 12-month finding (70 FR 24869 at 24907, May 11, 2005) indicating that listing was warranted, but was precluded by higher priority listing actions, including court-approved settlements, court-ordered and statutory deadlines for petition findings and listing determinations, emergency listing determinations, and responses to litigation that continue to preclude the proposed and final listing rules for this species. The May 11, 2004, petition was consolidated with several other cases filed by the Center for Biological Diversity or WildEarth Guardians relating to petition finding deadlines. A multi-district litigation settlement agreement with these cases was approved by the court on September 9, 2011, in *In re Endangered Species Act Section 4 Deadline Litigation, No. 10–377 (EGS), MDL Docket No. 2165* (D.D.C. May 10, 2011). This not-warranted 12-month finding fulfills that requirement of the multi-district litigation settlement agreement for *C. wartoni.*

Species Information

This section summarizes the information we evaluated to determine that *Cicurina wartoni* is not a species or subspecies and cannot be listed as such under the Act, and that, therefore, it must be removed from the candidate list. Several entities of spiders referenced in this finding do not have common names. Consequently, we are using Latin names in this finding for the purposes of clarity in the genetics and taxonomy discussions. However, the use of the Latin name, *C. wartoni,* is not meant to imply that it is a valid species, but only used for clarity.

Cicurina wartoni is an eyeless, cave-endemic spider known only from a single geographic location, a privately owned, shallow cave known as Pickle Pit, in Travis County, Texas (Gertsch 1992). It is in the family Dictynidae (meshweavers), genus *Cicurina,* and subgenus *Cicurella. Cicurina* derived from surface-dwelling ancestors with eight eyes (typically), and are mostly smaller than their ancestors and are progressively losing or have lost their eyes (Gertsch 1992, pp. 75–76, 79, 97). *Cicurina wartoni* was first collected from Pickle Pit in Travis County, Texas, in 1990 by James Reddell, Marcelino Reyes, and Lee Sherrod and described by Gertsch (1992, p. 101). Gertsch recognized the species as distinct based on the epigynal (female reproductive organs used for identifying the species) morphology of a single adult female specimen. Paquin and Hedin (2004, pp. 3,239–3,240) conducted genetic studies on three other species of cave-dwelling, blind *Cicurina* meshweavers occurring in southern Travis and northern Hays Counties, Texas, to develop genetic assessment techniques for species-level identification of immature specimens of blind *Cicurina* spiders. At the time, the owners of Pickle Pit did not grant access to the researchers; consequently, specimens from this location could not be included in that study.

Paquin and Dupérré (2009, p. 55) examined a voucher specimen (an animal preserved for scientific use) from Pickle Pit at the American Museum of Natural History and, in greater detail

than previously done, redescribed the morphology of the specimen (e.g., carapace (body) length, leg length, etc.) and reillustrated the epigynum (female reproductive organs used for identifying the species). Based on this more detailed comparison, Paquin and Dupérré (2009, p. 55) suggested that *C. wartoni* should be synonymized with or considered part of *C. buwata* (no common name). Paquin and Dupérré (2009, p. 55) also suggested that *C. reddelli* (no common name) and *C. travisae* (no common name) should be synonymized with *C. buwata* because there are only minor variations in the epigynum of these species and they occur in close proximity to one another (Paquin and Dupérré 2009, pp. 99, 101).

Access to Pickle Pit was granted on November 22, 2011, March 26, 2012, and April 26, 2013. During those site visits, three immature blind *Cicurina* specimens were collected. Hedin (2014, entire) reevaluated the taxonomic status of *Cicurina wartoni.* Hedin (2014, pp. 2, 3, 5–6, 8, 12) employed several rigorous analytical methods (genetic and morphological) to test species limits. Hedin (2014, entire) analyzed multiple genes (one mitochondrial gene and eight nuclear genes) and the reproductive morphology. This study compared specimens from Pickle Pit to specimens from 27 regional caves, plus a handful of samples from outside the region of interest. Based on this analysis, Hedin (2014, pp. 7–8) found that *C. wartoni* is not a distinct species. Rather, Hedin (pp. 8–9) recommends that *C. wartoni, C. travisae,* and *C. reddelli* should all be considered a single taxonomic entity until formal taxonomic changes can be published.

We requested a peer review of Hedin (2014) from five individuals with expertise in arachnology, genetics, or cave ecology to assess whether the conclusions were scientifically sound. We received three responses, which all supported the conclusions of Hedin (2014). In addition, we conducted internal Service review by our Conservation Genetics Laboratory, who supported the conclusions of Hedin (2014).

Evaluation of Listable Entity

Under the Act, the term ''species'' includes ''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'' (16 U.S.C. 1532(16)).

Based on our review of the best available scientific and commercial information, the taxonomic entity that was known as *Cicurina wartoni* is not a distinct species (Hedin 2014, pp. 7–8). Therefore, we conclude that *C. wartoni* does not meet the definition of a species under section 3(16) of the Act. Additionally, invertebrates are precluded by statute from distinct population segment consideration. Therefore, we conclude that the petitioned entity does not constitute a listable entity and cannot be listed under the Act.

Finding

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Under the Act, a species is defined 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 (16 U.S.C. 1532).

Based on the best scientific and commercial information available, *Cicurina wartoni* does not meet the definition of a ''species'' and is, therefore, not a listable entity under the Act because *Cicurina wartoni* is not itself a valid species or subspecies. As an invertebrate, *C. wartoni* cannot be considered under the Act's distinct population segment provisions. Therefore, we find *C. wartoni* is not a valid taxonomic entity and does not meet the definition of a species or subspecies under the Act, and further does not warrant listing under the Act. As a result, we are removing this species from the candidate list.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2014–0026 and upon request from the Austin Ecological Services Field Office (see **ADDRESSES**).

Authors

The primary authors of this notice are staff members of the Austin Ecological Services Field Office.

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.*).

Dated: July 24, 2014.

Stephen Guertin,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2014–19089 Filed 8–12–14; 8:45 am]

BILLING CODE 4310–55–P