endangered. The Service also proposed classifying bald eagles in Mexico as endangered; they are not currently listed as endangered or threatened. Specific public comment was solicited on the status of bald eagles in the Southwest and Mexico and the distinctness of those eagles as a separate population. New information indicates that the Southwestern and Mexican bald eagles may not warrant a classification as endangered. The Service is making available for public review and comment information recently received about bald eagles of the Southwestern Recovery Region.

DATES: The comment period on the proposal is reopened, effective immediately, and will close on April 24, 1995.

ADDRESSES: Interested parties may obtain copies of the comments and other information listed below from the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056 (612/725–3536; fax 612/725–3526). Copies may also be obtained from the State Supervisor, Arizona Ecological Services State Office, 2321 W. Royal Palm Road, Phoenix, Arizona 85021 (602/640–2720; fax 602/640–2730).

Send written comments and other materials to the above Ft. Snelling, Minnesota, Regional Office address. Comments and materials received will be available for public inspection during normal business hours, by appointment, at that address.

FOR FURTHER INFORMATION CONTACT: Jody Gustitus Millar, Bald Eagle Recovery Coordinator, Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201 (309/793–5800; fax 309/793–5804).

SUPPLEMENTARY INFORMATION:

Background

The bald eagle (*Haliaeetus leucocephalus*) is listed as endangered under the Endangered Species Act of 1973, as amended (Act), in the lower 48 States except Washington, Oregon, Minnesota, Wisconsin, and Michigan, where it is listed as threatened. The bald eagle also occurs in Alaska and Canada, where it is not at risk and is not protected under the Act; and in small numbers in northern Mexico. The Service proposed in the July 12, 1994, **Federal Register** notice (59 FR 35584) to reclassify the bald eagle from endangered to threatened in the lower 48 States except in certain portions of the American Southwest and to classify bald eagles in Mexico as endangered. That notice also stated that comments and other information received by the Service may lead to a final regulation that differs from the original proposal, including the possible complete reclassification to threatened status for all bald eagles south of Canada.

The Service has received significant new information regarding Southwestern bald eagles and has re-examined other information. Existing information at the time of the proposed rule fails to identify any unique genetic characteristics possessed by the Southwestern bald eagles. New information indicates that the bald eagles of the Southwestern Recovery Region and Mexico are not likely to be reproductively isolated. Evidence of recruitment has recently been found from the Southeastern Recovery Region into the Southwestern Recovery Region and Mexico. Unique threats to Southwestern bald eagles remain, but their significance is diminished in light of immigration into the population segment.

The Service is now considering reclassifying the eagles of the Southwestern Recovery Region as threatened, and classifying the bald eagles of Mexico as threatened. The bald eagle would remain threatened in the five States where it is currently listed as threatened. This modified action, if finalized, would not alter those conservation measures already in force to protect the species and its habitats.

The **Federal Register** notice announcing the proposed rule opened a public comment period that ended on October 11, 1994; the deadline for receipt of public hearing requests was August 26, 1994. Public hearings were subsequently held, and the comment period was extended in a September 30, 1994 notice (59 FR 49908) to accommodate them. The extended comment period closed November 9, 1994. This notice reopens the comment period for 30 days to allow interested parties to obtain copies of the following documents and to submit additional comments on the proposed rule.

References

Driscoll, D.E., R.I. Mesta and J.T. Driscoll. 1993. Population ecology and demography of bald eagles in Arizona: 1991–1993. American Eagle Research Institute, Mesa, Arizona 74pp.

Driscoll, Dan (American Eagle Research Institute) 1995. Letter to U.S. Fish and Wildlife Service, Phoenix, Arizona.

Driscoll, Dan (American Eagle Research Institute) 1995. Letter to U.S. Fish and Wildlife Service, Rock Island, Illinois.

Mabie, D.W., M.T. Merendino and D.H Reid. 1994. Dispersal of bald eagles fledged in Texas. Journal of Raptor Research 28(4):213–219.

Montoya, Bill (Director, New Mexico Department of Game & Fish). 1994. Letter to U.S. Fish and Wildlife Service.

Shroufe, Duane. (Director, Arizona Game & Fish Department). 1994. Letter to U.S. Fish and Wildlife Service.

Spiller, Sam. (State Supervisor, U.S. Fish and Wildlife Service, Phoenix, Arizona). 1994. Memo to U.S. Fish and Wildlife Service, Twin Cities, Minnesota.

Author

The primary author of this notice is Jody Gustitus Millar, Bald Eagle Recovery Coordinator, Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201.

Authority

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

Dated: March 15, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–7205 Filed 3–22–95; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition to List the Southern Rocky Mountain Population of the Boreal Toad as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the southern Rocky Mountain population of the boreal toad (*Bufo boreas boreas*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is warranted but precluded by other higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants.

DATES: The finding announced in this document was made on March 15, 1995. Comments, questions, or information regarding status and threats to the boreal toad may be submitted until further notice.

ADDRESSES: Comments, questions, or information concerning this finding may be submitted to the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 764 Horizon Drive, South Annex A, Grand Junction, Colorado 81506–3946. The petition, finding, and supporting documents are available for public inspection, by appointment,

during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Terry Ireland (see **ADDRESSES** above) at telephone (303) 243–2778.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act) of 1973, as amended (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 and commercial information, the Fish and Wildlife Service (Service) make a finding within 12 months of the date of the 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 of higher priority. Notice of such 12-month findings are to be published promptly in the **Federal Register**. This notice meets the latter requirement for the Service's 12-month administrative finding regarding the petition discussed below. Information contained in this notice is a summary of the information in the 12-month finding, which is the Service's decision document.

On September 30, 1993, the Service received a petition dated September 27, 1993, from the Biodiversity Legal Foundation located in Boulder, Colorado, and Dr. Peter Hovingh, a professor at the University of Utah. The petition requested that the southern Rocky Mountain population of the ''western boreal toad'' (*Bufo boreas boreas*) be listed as endangered and that critical habitat be designated. A 90-day finding announced in the **Federal Register** on July 22, 1994 (59 FR 37439), indicated that the petition presented substantial information indicating that the requested action may be warranted.

The finding also announced a public comment period extending to September 20, 1994. Forty-three comment letters were received. Two commenters provided scientific information on status, threats, and genetics of the boreal toad and concluded that listing was warranted. A third commenter provided a hypothesis for boreal toad declines. The other 40 letters opposed Federal listing and 9 provided information on status or regulatory protection afforded to the southern Rocky Mountain population of the boreal toad. Several residents of the Laramie, Wyoming, area were concerned about restriction of mosquito spraying. The Service does not believe that mosquito spraying in Laramie contributed to declines of the boreal toad because Laramie lies below 2,300 meters (7,500 feet) which is the lower elevational range inhabited by the boreal toad.

Boreal toads were once common throughout much of the high elevations in Colorado (Burger and Bragg 1946, Smith et al. 1965, Hammerson 1989) and in the Sierra Madre, Medicine Bow, and southern Laramie Mountains of southeast Wyoming (Baxter and Stone 1985). Boreal toads were found at only three localities at the southern periphery of their range in the San Juan Mountains of New Mexico: Lagunitas, Canjilon and Trout Lakes (Campbell and Degenhardt 1971, Jones 1978, New Mexico Department of Game and Fish 1988). Altitudinal distribution ranges from 2,300 meters (7,500 feet) Baxter 1952) to approximately 3,700 meters (12,000 feet) (C. Pague, Colorado Natural Heritage Program, *in litt.* 1994).

Declines in boreal toad demes (a small group or population of organisms that interbreed) were first documented in New Mexico in 1984 (Woodward and Mitchell 1985), in Colorado in 1974 (Carey 1993), and in southern Wyoming in 1986 (Corn et al. 1989). Boreal toads are now extirpated from the three known historic sites in New Mexico (Stuart and Painter 1994). Corn et al. (1989) found that boreal toads were absent from 83 percent of locations in Colorado and Wyoming previously known to contain toads. Recent surveys revealed several previously unknown locations and extant historical locations of nonbreeding individuals and several breeding sites; but survey data indicated that boreal toads are absent from approximately 96 percent of localities that contained known historical records of suitable habitat.

Physical and climatic conditions separate the southern Rocky Mountain population of the boreal toad from populations in western Wyoming and northeastern Utah. Because of this geographic isolation, the Service believes that the southern Rocky Mountain population of the boreal toad can be listed as a distinct vertebrate population segment under the Act.

Summary of Factors Affecting the Species

The following information is a summary and discussion of the five factors or listing criteria as set forth in section 4(a)(1) of the Endangered Species Act (Act), as amended (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act and their applicability to the current status of the southern Rocky Mountain population of the boreal toad.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The southern Rocky Mountain population of the boreal toad is found primarily on public land within State forests, national forests, and lands administered by the Bureau of Reclamation, Bureau of Land Management, and National Park Service. The use of these lands ranges from recreational to intensive timber and grazing management and watershed alteration activities. Activities that destroy, modify, or curtail habitat are likely to contribute to the continued decline in toad numbers; however, the Service does not believe that recreational or habitat management activities brought about rangewide decline of the southern Rocky Mountain population of the boreal toad.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The boreal toad has no commercial value and any recreational values are low and nonconsumptive. Scientific and educational collecting is not thought to have been widespread over the past decade. Overutilization is not currently thought to contribute to declines in the southern Rocky Mountain population of the boreal toad.

C. *Diseases or predation.* Carey (1987, 1993) indicated that the proximate cause of the widespread decline of boreal toads in northern New Mexico and west-central Colorado was a result of infection by *Aeromonas hydrophila* bacteria (red-leg disease). However, *A. hydrophila* is common in the microfauna carried by amphibians, and it does not cause infection or death in healthy individuals. As a result, toads likely were stressed by adverse environmental factors, such as acid rain, pollution, or increased ultraviolet radiation, and later succumbed to *A. hydrophila* infection (Carey 1987). Competition and predation by native and nonnative species occurs but is probably a minor impact.

D. *The inadequacy of existing regulatory mechanisms.* The boreal toad is listed as endangered by Colorado and New Mexico and is a nongame animal in Wyoming. The Colorado Division of Wildlife has formed a recovery team and is in the final stages of preparing a State recovery plan (Tom Nesler, Colorado Division of Wildlife, pers. comm. 1994). In 1993 the Colorado Division of Wildlife entered into a cooperative agreement with the Service for research on the boreal toad and has also initiated a conservation agreement with a private mining company whose land contains boreal toad breeding sites.

A conservation agreement will be developed for the southern Rocky Mountain population of the boreal toad between the Service, Forest Service, National Park Service, Bureau of Land Management, National Biological Survey, Colorado Division of Wildlife, and perhaps other agencies. The agreement will serve as a commitment by the various agencies to work toward recovery of the southern Rocky Mountain population of the boreal toad. A cooperatively formulated conservation strategy that complements the Colorado Division of Wildlife's recovery plan and that implements the conservation agreement has been recommended by the Forest Service (Elizabeth Estill, U.S. Forest Service, *in litt.* 1994).

A sensitive species policy has been developed under the National Forest Management Act (16 U.S.C. 1600 *et seq.*) which directs the U.S. Forest Service to manage for sensitive or candidate species such as the boreal toad. In 1988, policies were developed by both the National Park Service and the Bureau of Land Management to conserve federally listed or rare species, thus ensuring that their actions do not impact boreal toads. Other Federal resource laws that may provide protection for the boreal toad are the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), Clean Water Act (33 U.S.C. 1344 *et seq.*) and Clean Air Act (42 U.S.C. 1857 *et seq.*).

E. *Other natural or manmade factors affecting its continued existence.* Factors, such as acid rain, pollution, and increased ultraviolet radiation, may be causing declines of the southern Rocky Mountain population of the boreal toad. The extent of natural population fluctuation remains unknown and may be working synergistically with other environmental or anthropogenic factors to cause declines in toad populations. Fishery management activities also may cause decline or extirpation in localized areas.

Finding

The service has reviewed the petition, the literature cited in the petition, other available literature and information, comments received following the 90-day finding, and consulted with biologists and researchers familiar with the boreal toad. On the basis of the best scientific and commercial information available, which is discussed above under the five listing factors, the Service finds the petitioned action is warranted but precluded by work on other species having higher priority for listing.

Section 4(b)(3)(B)(iii) of the Act states that the Service may make a warranted but precluded finding if it can demonstrate that (1) an immediate proposed rule is precluded by other pending proposals, and that (2) expeditious progress is being made on other listing actions. Expeditious progress in listing endangered and threatened species is being made and is reported annually in the **Federal Register**. Furthermore, on September 21, 1983 (48 FR 43098), the Service published in the **Federal Register** its system for prioritizing species for listing. The system considers magnitude of threat, immediacy of threat, and taxonomic distinctiveness in assigning species numerical listing priorities on a scale of 1 to 12. The southern Rocky Mountain population of the boreal toad is assigned a listing priority of 3 because noted declines exist throughout its range (magnitude is high), as far as can be determined the threat(s) still exists (it is imminent), and for taxonomic purposes populations are treated as subspecies.

Although a priority 3 is a relatively high listing priority, there are three candidate species in Colorado that appear to be more in need of listing, thus precluding the listing of the southern Rocky Mountain population of the boreal toad at this time. One candidate is the mountain plover (*Charadrius montanus*) for which the Service is preparing a proposed rule. The Service regards the magnitude and immediacy of threat to the mountain plover to be at the same level as they are for the boreal toad; however, the mountain plover is a full species and is being considered for listing throughout its range, resulting in a higher listing priority of 2. The Service has been petitioned to list the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). If a warranted finding is made, the listing priority for the mouse will likely be 3, the same as the boreal toad; however, the mouse's entire range is being considered for listing, not just a portion, and there are fewer individual mice than boreal toads. A plant, *Phacelia submutica* (DeBeque phacelia), also has a higher listing priority (2) than the boreal toad. Consequently, listing of the boreal toad will follow listing of the other three species unless it is determined that listing one or more of those species is not warranted or that listing the boreal toad is not warranted.

The petitioners requested that critical habitat be designated for the southern Rocky Mountain population of the boreal toad. Designation of critical habitat is not petitionable under the Act; however, critical habitat will be proposed at the time the population is proposed for listing unless it is not determinable or not prudent.

As required by section 4(b)(3)(C)(i) of the Act, the Service will reassess the warranted but precluded finding after 1 year.

The Service's 12-month finding contains more detailed information regarding the above decisions. A copy may be obtained from the Western Colorado Office (see **ADDRESSES** section).

Reference Cited

A complete list of all references cited is available upon request from the Western Colorado Office (see **ADDRESSES** section).

Author: The primary author of this document is Terry Ireland, Western Colorado Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

Dated: March 15, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–7203 Filed 3–22–95; 8:45 am]

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