

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Findings on Petitions to List the Louisiana Black Bear, Lower Keys Marsh Rabbit, and Sherman's Fox Squirrel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on petition.

SUMMARY: The Service announces two 90-day petition findings and two 12-month petition findings for petitions to amend the Lists of Endangered and Threatened Wildlife and Plants. Petitioners have presented substantial information that petitions to list the Louisiana black bear and Sherman's fox squirrel may be warranted. One-year findings are announced on the petitions to list the Louisiana black bear and the lower Keys marsh rabbit. The Service has determined that the actions requested are warranted but precluded by other actions to amend the lists.

DATES: The findings announced in this notice were made during the period from June 1987 to May 1988. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions regarding the Louisiana black bear petition may be submitted to the Jackson Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213 (telephone 601/965-4900, FTS 490-4900). Information, comments, or questions regarding the lower Keys marsh rabbit or Sherman's fox squirrel petitions may be submitted to the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (telephone 904/791-2580, FTS 96-2580). The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the addresses listed above.

FOR FURTHER INFORMATION CONTACT:

Mr. James Stewart at the Jackson, Mississippi, Field Office or Mr. David Wesley at the Jacksonville, Florida, Field Office (telephone numbers are listed above under "ADDRESSES").

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (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 to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the *Federal Register*. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species. All species mentioned here were already under review by the Service when petitioned, and all were listed in a notice of review published September 18, 1985 (50 FR 37958), in category 2 as under consideration for possible addition to the List of Endangered and Threatened Wildlife and Plants.

Section 4(b)(3)(B) of the Act, as amended, 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. Section 4(b)(3)(C) requires that petitions for which the action requested is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e. requiring a subsequent finding to be made within 12 months. Such 2-month findings are to be published promptly in the *Federal Register*.

The Service has received and made 90-day findings on the following two petitions:

A petition from Mr. Reed F. Noss was dated November 21, 1987, and received by the Service on November 27, 1987. It requested the Service to list Sherman's fox squirrel, *Sciurus niger shermani*, as a threatened species with critical habitat. Status review for Sherman's fox squirrel was initiated by a notice of review published December 30, 1982 (47 FR 58454). The petition cited a listing in category 2 of the most recent vertebrate notice of review, some status work conducted by the petitioner, and some additional data in the possession of Florida Natural Areas Inventory in support of the action requested.

The petition to list Sherman's fox squirrel was examined by the Service. On the basis of the best scientific and commercial information presently available, the Service determined that this petition presented substantial information indicating that the action requested may be warranted.

A petition dated March 6, 1987, from Mr. Harold Schoeffler was received by the Service on March 23, 1987. It requested the Service to list *Ursus americanus luteolus*, the Louisiana black bear. The Service had previously initiated review of the status of the Louisiana black bear in a notice published December 30, 1982 (47 FR 58454). The petition gave a summary of evidence that this subspecies is still extant in two restricted areas in the Tensas River Basin and in the lower Atchafalaya Basin of Louisiana. This range was described as a contraction from an area once covering most of Louisiana and extending into eastern Texas and western Mississippi. A number of threats were indicated to exist, including the threat of interbreeding with black bear stocks introduced within the historic range from Minnesota between 1964 and 1967.

In July 1987 the Service determined that the action requested by this petitioner may be warranted. Notice of the administrative 90-day finding has not previously been published. A 12-month finding has subsequently been

made, that the action requested in respect to the Louisiana black bear is warranted but is precluded by work on other species having higher priority for listing. Both findings are reported herewith. The Service wishes to develop further information about the existence and exact status of the subspecies in order to support a rule to propose it for addition to the list of Endangered and Threatened Wildlife and Plants. There is sufficient evidence to justify active continuation of surveys to answer the necessary questions about its status. The Tensas River National Wildlife Refuge has agreed to conduct a survey in the Tensas River basin; and the Louisiana Cooperative Fish and Wildlife Research Unit at Baton Rouge will assist the Service by surveying the remainder of the known current range in the Atchafalaya River basin. Dates for completion of the surveys have not yet been established.

A recent 12-month petition finding has been made on a petition from Ms. Joel L. Beardsley, Mariposa, Florida. Dated April 11, 1985; and received by the Service on April 27, 1985; this petition requested endangered listing for the lower (Florida) Keys marsh rabbit (*Sylvilagus palustris hefneri*). This rabbit is known to occur only in a few locations in the lower (or western) Florida Keys and was stated to have become very scarce in recent years. The petitioner indicated that the limited area it inhabits is jeopardized by development. A 90-day determination that the action requested may be warranted was reported in the *Federal Register* of August 30, 1985 (50 FR 35272), with a notice of review of the status of the marsh rabbit. Previous 12-month findings that the action was considered warranted but precluded by other listing activity were made in 1986 and 1987. The most recent finding is again that the action requested is warranted, but precluded by work on other species having higher priority for listing. The priority in respect to this species has increased, however, with the recent completion of a survey to determine its status.

Section 4(b)(3)(B)(iii) of the Act states that petitioner actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. Expeditious progress in listing endangered and threatened species is being made, and is reported annually in the *Federal Register*. The most recent progress report was published on July 7, 1988 (53 FR 25511).

Author

This notice was prepared by Dr. George Drewry, Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC. 20240 (703/235-1975 or FTS 235-1975).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-350, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: August 11, 1988.

Susan Recca,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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