

Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R8-ES-2022-024; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BG21

**Endangered and Threatened Wildlife and Plants; Endangered Species Status for the
Dixie Valley Toad**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Dixie Valley toad (*Anaxyrus williamsi*), a toad species from Nevada, as an endangered species under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the Dixie Valley toad. After a review of the best available scientific and commercial information, we find that listing the species is warranted. An emergency rule listing this species as endangered for 240 days is published concurrently in this issue of the *Federal Register*. We find that the designation of critical habitat for the Dixie Valley toad is not determinable at this time. We solicit additional data, information, and comments that may assist us in making a final decision on this action. We also are notifying the public that we have scheduled an informational meeting followed by a public hearing on the proposed rule.

DATES: We will accept comments received or postmarked on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public informational meeting and public hearing: On May 9, we will hold a public informational meeting 5–5:35 p.m., Pacific Time, followed by a public hearing 5:35–7:00 p.m., Pacific Time.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2022-0024, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2022-0024, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Information Requested**, below, for more information).

FOR FURTHER INFORMATION CONTACT: Marc Jackson, Field Supervisor, U.S. Fish and Wildlife Service, Reno Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502; telephone 775–861–6300. 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:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current population levels, and current and projected trends; and

(d) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, additional information on the potential effects of geothermal plants on amphibians or wetland ecosystems, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status of this species.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. At this time, we have preemptively scheduled a public informational meeting and public hearing on this proposed rule. We will hold the public informational meeting and public hearing on the date and at the times listed above under *Public informational meeting and public hearing* in **DATES**. We are holding the public informational meeting and public hearing via the Zoom online video platform and via teleconference so that participants can attend remotely. For security purposes, registration is required. To listen and view the meeting and hearing via Zoom, listen to the meeting and hearing by telephone, or provide oral public comments at the public hearing by Zoom or telephone, you must register. For information on how to register, or if you encounter problems joining Zoom the day of the meeting, visit <https://www.fws.gov/office/reno-fish-and-wildlife>. Registrants will receive the Zoom link and the telephone number for the public informational meeting and public hearing. If applicable, interested members of the public not familiar with the Zoom platform should view the Zoom video tutorials (<https://support.zoom.us/hc/en-us/articles/206618765-Zoom-video-tutorials>) prior to the public informational meeting and public hearing.

The public hearing will provide interested parties an opportunity to present verbal testimony (formal, oral comments) regarding this proposed rule to list the Dixie Valley toad as an endangered species. The public hearing is a forum for accepting formal verbal testimony and is not an opportunity for open dialogue. In the event there is a large attendance, the time allotted for oral statements may be limited. Therefore, anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a prepared written copy of their statement to us through the Federal eRulemaking Portal, or U.S. mail (see **ADDRESSES**, above). There are no limits on the length of written comments submitted to us. Anyone wishing to make an oral statement at the public hearing must register before the hearing <https://www.fws.gov/office/reno-fish-and-wildlife>. The use of a virtual public hearing is consistent with our regulations at 50 CFR 424.16(c)(3).

Reasonable Accommodation

The Service is committed to providing access to the public informational meeting and public hearing for all participants. Closed captioning will be available during the public informational meeting and public hearing. Further, a full audio and video recording and transcript of the public hearing will be posted online at <https://www.fws.gov/office/reno-fish-and-wildlife> after the hearing. Participants will also have access to live audio during the public informational meeting and public hearing via their telephone or computer speakers. Persons with disabilities requiring reasonable accommodations to participate in the meeting and/or hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the date of the meeting and hearing to help ensure availability. An accessible

version of the Service’s public informational meeting presentation will also be posted online at <https://www.fws.gov/office/reno-fish-and-wildlife> prior to the meeting and hearing (see **DATES**, above). See <https://www.fws.gov/office/reno-fish-and-wildlife> for more information about reasonable accommodation.

Supporting Documents

A species status assessment (SSA) team prepared an SSA report for the Dixie Valley toad. The SSA team was composed of Service biologists, in consultation with other scientific experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species and its habitat. 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 of listing actions under the Act, we will seek expert opinions of at least three appropriate specialists regarding the SSA. The SSA report and other materials related to this proposed rule can be found at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2022-0024.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Dixie Valley toad (*Anaxyrus williamsi*) is presented in the SSA report (Service 2022, entire).

The Dixie Valley toad was described as a distinct species in the western toads (*Anaxyrus boreas*) species complex in 2017 due to morphological differences, genetic information, and its isolated distribution (Gordon et al. 2017, entire). Forrest et al. (2017,

entire) also published a paper describing Dixie Valley toad and came up with similar results but stopped short of concluding that it is a unique species. We evaluated both papers and concluded the Gordon et al. (2017, entire) paper provided a better sampling design to answer species-level genetic questions and conducted a more thorough morphological analysis. Additionally, the Dixie Valley toad has been accepted as a valid species by the two leading authoritative amphibian internet sites: (1) amphibiaweb.org (AmphibiaWeb 2022, website) and (2) Amphibian Species of the World (Frost 2021, website). Because both the larger scientific community and our own analysis of the best available scientific information indicate that the findings of Gordon et al. (2017 entire) are well supported, we are accepting their conclusions that the Dixie Valley toad is a unique species (*Anaxyrus williamsi*). Therefore, we have determined that the Dixie Valley toad is a listable entity under the Act.

Fourteen different morphological characteristics of Dixie Valley toads were measured and compared to several other species within the western toads species complex (Gordon et al. 2017, pp. 125–131). While all 14 morphological characteristics measured for Dixie Valley toad were significantly different from the other species within the western toads species complex, the most striking differences were the average size of adults (mean snout-to-vent length (SVL) of 54.6 millimeters (mm) (2.2 inches (in))), which makes it the smallest species within the *A. boreas* species complex), the close-set eyes and perceptively large tympanum (eardrum), and its unique coloration (Gordon et al. 2017, pp. 125–131).

Limited information is available specific to the life history of the Dixie Valley toad; therefore, closely associated species are used as surrogates where appropriate.

Breeding (denoted by observing a male and female in amplexus, egg masses, or tadpoles) occurs annually between March and May (Forrest 2013, p. 76). Breeding appears protracted due to the thermal nature of the habitat and can last up to 3 months (March–May) with toads breeding early in the year in habitats closer to the thermal spring sources and then moving downstream into habitats as they warm throughout spring and early summer. Other toad species typically have a much more contracted breeding season of 3–4 weeks (e.g., Sherman 1980, pp. 18–19, 72–73). Dixie Valley toad tadpoles hatch shortly after being deposited; time to hatching is not known but is likely dependent on water temperature (e.g., black toad (*Anaxyrus exsul*) tadpoles hatch in 7 to 9 days; Sherman 1980, p. 97). Fully metamorphosed Dixie Valley toadlets were observed 70 days after egg laying (Forrest 2013, pp. 76–77).

The Dixie Valley toad is a narrow-ranging endemic (highly local and known to exist only in their place of origin) known from one population in the Dixie Meadows area of Churchill County, Nevada. The species occurs primarily on Department of Defense (Fallon Naval Air Station) lands (90 percent) and Bureau of Land Management (BLM) lands (10 percent). The wetlands located in Dixie Meadows cover 307.6 hectares (ha) (760 acres (ac)) and are fed by geothermal springs. The potential area of occupancy is estimated to be 146 ha (360 ac) based on the extent of wetland-associated vegetation. The species is heavily reliant on these wetlands, as it is rarely encountered more than 14 meters (m) (46 feet (ft)) from aquatic habitat (Halstead et al. 2021, p. 7).

The Nevada Department of Wildlife received approval by the Legislative Council Bureau to add Dixie Valley toads as a protected amphibian by the State of Nevada under Nevada Administrative Code (NAC) 503.075(2)(b). The revised list of protected

amphibians is expected to be finalized in 2022. Per NAC 503.090(1), there is no open season on those species of amphibian classified as protected. Per NAC 503.094, the State issues permits for the take and possession of any species of wildlife for strictly scientific or educational purposes. The Nevada Department of Conservation and Natural Resources includes the Nevada Division of Natural Heritage (NDNH), which tracks the species status of plants and animals in Nevada. The NDNH recognizes Dixie Valley toads as critically imperiled, rank *S1*. Ranks of *S1* are defined as species with very high risks of extirpation in the jurisdiction due to very restricted range, very few populations or occurrences, very steep declines, severe threats, or other factors.

For an extensive discussion of biological background information, previous Federal actions, biological status, the threats analysis, conservation efforts and regulatory mechanisms, our determination of status under the Act, and conservation measures available to listed and proposed species, consult the emergency rule for the Dixie Valley toad published concurrently in this issue of the *Federal Register*. The emergency rule further contains the rationale for this proposal to list the Dixie Valley toad as an endangered species under the Act.

II. Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

- (1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features
 - (a) Essential to the conservation of the species, and

- (b) Which may require special management considerations or protection; and
- (2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (i.e., range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (e.g., migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals). Additionally, our regulations at 50 CFR 424.02 define the word "habitat," for the purposes of designating critical habitat only, as the abiotic and biotic setting that currently or periodically contains the resources and conditions necessary to support one or more life processes of a species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action

they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement “reasonable and prudent alternatives” to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act’s definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act’s definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at

the time it is listed, upon a determination that such areas are essential for the conservation of the species. The implementing regulations at 50 CFR 424.12(b)(2) further delineate unoccupied critical habitat by setting out three specific parameters: (1) when designating critical habitat, the Secretary will first evaluate areas occupied by the species; (2) the Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species; and (3) for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the *Federal Register* on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information

sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

As the regulatory definition of “habitat” reflects (50 CFR 424.02), habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other

species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

As discussed in the SSA report, there is currently no imminent threat of collection or vandalism (identified under Factor B) for this species, and identification and mapping

of critical habitat is not expected to initiate any such threat. In our SSA report and emergency listing rule for the Dixie Valley toad, we determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to Dixie Valley toad and that those threats in some way can be addressed by section 7(a)(2) consultation measures. The species occurs wholly in the jurisdiction of the United States, and we are able to identify areas that meet the definition of critical habitat. Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) have been met and because the Secretary has not identified other circumstances for which this designation of critical habitat would be not prudent, we have determined that the designation of critical habitat is prudent for the Dixie Valley toad.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the Dixie Valley toad is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

- (i) Data sufficient to perform required analyses are lacking, or
- (ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of “critical habitat.”

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where this species is located. Careful assessments of the economic impacts that may occur due to a critical habitat designation are not yet complete. Therefore, data sufficient to perform required analyses are lacking, and we conclude that the designation of critical habitat for the Dixie Valley toad is not

determinable at this time. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Required Determinations

Clarity of the Rule

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons

for this determination in the *Federal Register* on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We requested information from the Paiute-Shoshone Tribe of the Fallon Reservation and Colony and have continued to coordinate during the SSA process. We are requesting the Tribe's partner review of the draft SSA report concurrent with the comment period identified in this proposed rule, which is published concurrently with the emergency rule found in the Rules and Regulations section of the *Federal Register* (see Docket No. FWS-R8-ES-2022-0024 at <https://www.regulations.gov>). We will continue to work with Tribal entities during the development of a final listing rule for the Dixie Valley toad, and for a designation of critical habitat if found to be prudent and determinable.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Reno Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Reno Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Published concurrently in the Rules and Regulations section of this issue of the *Federal Register*, we are exercising our authority pursuant to section 4(b)(7) of the Endangered Species Act of 1973, as amended, to emergency list for 240 days the Dixie Valley toad (*Anaxyrus williamsi*) as an endangered species due to the imminent development of a geothermal project in Dixie Meadows, Nevada, and the potential resulting effects to the geothermal springs relied upon by the Dixie Valley toad. For the reasons discussed in the preamble of that emergency rule, we propose to make the emergency listing permanent.

AUTHORITY: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

Martha Williams

Director,

U.S. Fish and Wildlife Service.