

inadequate to prevent the progressive decline of populations of the Tucson shovel-nosed snake and its habitat.

*E. Other Natural or Manmade Factors Affecting the Species' Continued Existence*

The petition claims that severe weather, particularly prolonged drought, has the potential to negatively impact Tucson shovel-nosed snake populations. The petitioner described prolonged drought as a potential reason that no Tucson shovel-nosed snakes were located in the Avra Valley within the historical range in Pima County during extensive searches by local researchers (Rosen 2003, p. 16). No data to support this claim were provided by the petitioner or by Rosen (2003), and although we have information in our files indicating that conditions in the United States (Intergovernmental Panel on Climate Change 2007, p. 9), and in the southwestern United States in particular (Seager *et al.* 2007, p. 1181) are likely to be drier and warmer in the near future, we have no information indicating such changes will negatively impact the Tucson shovel-nosed snake. The petitioner also claims that, in addition to prolonged drought, climate change or habitat modification that results in permanently wetter environmental conditions could also lead to further declines of this arid-adapted subspecies, particularly under prevailing conditions in which only fragments of the original distribution remain occupied. However, the petition provides no data to support the claim that climate change will result in wetter environmental conditions within the current range of the species, nor does it provide data to support the claims that the Tucson shovel-nosed snake responds negatively to wetter environmental conditions and that fragmented habitat would exacerbate negative impacts due to wetter conditions. Therefore, we do not find that the petition provides substantial information to support the claim that prolonged drought or climate change pose significant threats to the Tucson shovel-nosed snake.

**Finding**

We have reviewed the petition and the literature cited in the petition, and evaluated the information to determine whether the sources cited support the claims made in the petition. We also reviewed reliable information that was readily available in our files to clarify and verify information in the petition. Based on our evaluation of the information provided in the petition, and in accordance with recent

applicable court decisions pertaining to 90-day findings, we find that the petition presents substantial scientific information indicating that listing the Tucson shovel-nosed snake may be warranted. Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents "substantial scientific and commercial information," which is interpreted in our regulations as "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)).

The petitioners presented substantial information indicating that the Tucson shovel-nosed snake may be threatened by Factors A and D throughout the entire range of the subspecies. The petitioners did not present substantial information that Factors B, C and E are currently, or in the future, considered a threat to this species. Based on this review and evaluation, we find that the petition has presented substantial scientific or commercial information that listing the Tucson shovel-nosed snake throughout all or a portion of its range may be warranted due to current and future threats under Factors A and D. As such, we are initiating a status review to determine whether listing the Tucson shovel-nosed snake under the Act is warranted. We will issue a 12-month finding as to whether any of the petitioned actions are warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding the Tucson shovel-nosed snake.

It is important to note that the "substantial information" standard for a 90-day finding is in contrast to the Act's "best scientific and commercial data" standard that applies to a 12-month finding as to whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination as to whether a petitioned action is warranted is not made until we have completed a thorough status review of the species, which is conducted following a positive 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

**References Cited**

A complete list of all references cited is available, upon request, from the Arizona Ecological Services Office (see

FOR ADDITIONAL INFORMATION CONTACT section).

**Author**

The primary author of this notice is the Arizona Ecological Services Office (see FOR ADDITIONAL INFORMATION CONTACT section).

**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 14, 2008.

**Kenneth Stansell,**

*Deputy Director, U.S. Fish and Wildlife Service.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[FWS-R8-ES-2007-0008; 92210-1117-0000-FY08 B4]

RIN 1018-AV07

**Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce the reopening of the public comment period on the June 19, 2007, proposed rule (72 FR 33808) to revise critical habitat for the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) under the Endangered Species Act of 1973, as amended (Act). This action will provide all interested parties with an additional opportunity to submit written comments on the proposed revised designation, draft economic analysis (DEA), and addendum to the DEA. Comments previously submitted need not be resubmitted as they are already incorporated into the public record and will be fully considered in any final decision.

**DATES:** We are reopening the comment period and will accept information received or postmarked on or before August 13, 2008.

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

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R8-ES-2007-0008, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203. We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011; telephone 760/431-9440; facsimile 760/431-5901. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments

We will accept comments and information during this reopened comment period on our proposed revision to critical habitat for the San Bernardino kangaroo rat published in the **Federal Register** on June 19, 2007 (72 FR 33808), the additions to revised critical habitat and the notice of availability of the DEA published in the **Federal Register** on April 16, 2008 (73 FR 20581), and the addendum to the DEA made available to the public on the Federal eRulemaking Portal: <http://www.regulations.gov> on June 11, 2008. You may obtain copies of all of these documents on the Internet at <http://www.regulations.gov>. If you submitted comments or information previously on the proposed rule, revisions, or DEA during previous open comment periods, please do not resubmit them. These comments have been incorporated into the public record and will be fully considered in the preparation of our final determination.

You may submit your comments and materials concerning the proposed rule, DEA and the addendum to the DEA by one of the methods listed in the **ADDRESSES** section. We will not

consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment 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 comments on <http://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 <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

##### Background

On June 19, 2007, we published a proposed rule to revise critical habitat for the San Bernardino kangaroo rat (72 FR 33808). On April 16, 2008, we published a notice in the **Federal Register** (73 FR 20581) announcing the availability of the draft economic analysis and changes to the proposed revised critical habitat designation for the San Bernardino kangaroo rat. Five critical habitat units, totaling approximately 7,779 acres (3,148 hectares), are proposed as revised critical habitat for the San Bernardino kangaroo rat. These units, which generally correspond to the three units in the 2007 proposed rule plus two additional units, if finalized, would entirely replace the current critical habitat designation for the San Bernardino kangaroo rat in 50 CFR 17.95(a). The proposed critical habitat is located within San Bernardino and Riverside Counties, California. For locations of these proposed units, please consult the proposed rule. The original public comment period for the proposed critical habitat rule closed on August 20, 2007. The public comment period was reopened for 30 days upon publication of the April 16, 2008 **Federal Register**

notice, ending on May 16, 2008. An addendum to the DEA was made available for public comment on June 11, 2008, on the Federal eRulemaking Portal: <http://www.regulations.gov>. Because the addendum to the DEA was not available on the Federal eRulemaking Portal during the previous comment period, we are reopening the comment period to provide all interested parties with an additional opportunity to submit written comments on the proposed revised designation, the DEA, and the addendum to the DEA.

Critical habitat is defined by the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed pursuant to section 4 of 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 geographic areas occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

If the proposed critical habitat designation is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat on the basis of the best scientific and commercial data available, after taking into consideration economic, and any other relevant, impacts of specifying any particular area as critical habitat.

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

Dated: July 8, 2008.

**David Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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