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Information and materials we receive, as well as supporting documentation we used in preparing this finding, 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's Utah Field Office, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119, telephone (801) 975-3330.

### Background

On July 15, 2002, we received a petition from the Center for Native Ecosystems, Forest Guardians, Biodiversity Conservation Alliance, and Terry Tempest Williams requesting that we list the white-tailed prairie dog (*Cynomys leucurus*) as threatened or endangered across its entire range.

Section 4(b)(3)(B) of the Act requires that for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants, to the maximum extent practicable, within 90 days after receiving the petition, we make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. In addition, within 12 months of the date of the receipt of the petition, we make a finding on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**.

On November 9, 2004, we announced our 90-day finding (69 FR 64889) that the petition did not present substantial scientific or commercial information indicating that listing may be warranted. On July 12, 2007, in a Director's memorandum, the Service announced that we would review the November 9, 2004, finding after questions were raised about the integrity of scientific information used and whether the decision made was consistent with the appropriate legal standards. We received a lawsuit from the Center for Native Ecosystems, and three other entities, on November 27, 2007, regarding our not substantial 90-day finding. On February 22, 2008, based on our review of the petition and the previous finding, we agreed, in a stipulated settlement agreement, to submit a notice initiating a 12-month

finding for the white-tailed prairie dog to the **Federal Register** on or before May 1, 2008, and to submit a 12-month finding for the white-tailed prairie dog to the **Federal Register** on or before June 1, 2010. This notice initiates the 12-month finding for the white-tailed prairie dog. The lawsuit was dismissed February 26, 2008.

At this time, we are soliciting new information on the status and potential threats to the white-tailed prairie dog. We will base our 12-month finding on a review of the best scientific and commercial information available, including all information received as a result of this notice. For more information on the biology, habitat, and range of the white-tailed prairie dog, please refer to our 90-day finding published in the **Federal Register** on November 9, 2004 (69 FR 64889).

We request any new information concerning the status of the white-tailed prairie dog. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, or copies of any pertinent publications, reports, or letters by knowledgeable sources.

### Author

The primary authors of this document are staff of U.S. Fish and Wildlife Service, Utah Field Office.

### Authority

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

Dated: April 29, 2008.

### Kenneth Stansell,

*Acting Director, Fish and Wildlife Service.*

[FR Doc. E8-9830 Filed 5-5-08; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R8-ES-2008-0045; 1111-FY07-MO-B2]

### Endangered and Threatened Wildlife and Plants; Petition To List the San Francisco Bay-Delta Population of the Longfin Smelt (*Spirinchus thaleichthys*) as Endangered

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

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a

90-day finding on a petition to list the San Francisco Bay-Delta population of the longfin smelt (*Spirinchus thaleichthys*) (longfin smelt) as endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the longfin smelt may be warranted. We, therefore, are initiating a status review to determine if listing this species under the Act is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species. We will make a determination on critical habitat for this species if, and when, we initiate a listing action.

**DATES:** To allow us adequate time to conduct this review, we request that information be submitted on or before July 7, 2008.

**ADDRESSES:** You may submit information 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-2008-0045; 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 email or faxes. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

### FOR FURTHER INFORMATION CONTACT:

Susan Moore, Field Supervisor, or Arnold Roessler, Listing Branch Chief, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825; telephone (916) 414-6600; facsimile (916) 414-6712. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800/877-8339.

### SUPPLEMENTARY INFORMATION:

#### Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the longfin smelt. We request any additional

information from the public, other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning the status of the longfin smelt, including:

(1) Information on taxonomy, genetics (especially regarding distinct population segments), distribution, habitat selection, food habits, population density and trends, habitat trends, and effects of management on longfin smelt;

(2) Information on the effects of climate change, sea level change, and change in water temperatures on the distribution and abundance of longfin smelt and their principal prey over the short and long term;

(3) Information on the effects of other potential threat factors, including water diversions in the Sacramento-San Joaquin River Delta (Delta), contaminants, invasive species, and changes of the distribution and abundance of longfin smelt and their principal prey over the short and long term;

(4) Information on management programs for longfin smelt conservation, including mitigation measures related to water diversions and development, habitat conservation programs, invasive species control programs, and any other private, tribal, or governmental conservation programs which benefit longfin smelt; and

(5) Information relevant to whether the San Francisco Bay–Delta population of the species may qualify as a distinct population segment (DPS).

You may submit your information concerning this finding by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by email or fax or to an address not listed in the addresses section.

If you submit information via <http://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 view. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information 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, Sacramento Fish and Wildlife

Office (see **FOR FURTHER INFORMATION CONTACT**).

### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “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)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

We base this finding on information provided by the petitioner that we determined to be reliable after reviewing sources referenced in the petition and information available in our files at the time of the petition review. We evaluated that information in accordance with 50 CFR 424.14(b). Our process for making this 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the “substantial information” threshold.

On August 8, 2007, we received a petition from the Bay Institute, Center for Biological Diversity, and Natural Resources Defense Council to list the longfin smelt as endangered within the San Francisco Bay–Delta estuary in California, and to designate critical habitat concurrently with the listing. The petition clearly identified itself as a petition and included the identification information required in 50 CFR 424.14(a). The petition contained detailed information on the natural history and biology of the longfin smelt, and the current status and distribution of the species. It also contained information on what the petitioners reported as potential threats to the species. In response to the petition, we sent a letter to the

petitioners dated September 25, 2007, stating that we had secured funding and that we would begin evaluation of the petition on October 1, 2007. We also concluded in our September 25, 2007, letter that emergency listing of the longfin smelt was not warranted at the time, based on the imminence of threats and because we would be working on the finding within the timeframe of routine listing processes.

### Previous Federal Actions

On November 5, 1992, we received a petition from Mr. Gregory A. Thomas of the Natural Heritage Institute to add the Sacramento splittail (*Pogonichthys macrolepidotus*) and longfin smelt to the List of Endangered and Threatened Wildlife and designate critical habitat for each species. On July 6, 1993, we published a 90-day finding in the **Federal Register** that the petition contained substantial information indicating that the requested action may be warranted, and that we would proceed with a status review of both species. On January 4, 1994, we published a notice of a 12-month finding on a petition to list the longfin smelt. We determined that the petitioned action was not warranted, based on the lack of population trend data for estuaries in Oregon and Washington, although the southernmost populations were found to be declining. Furthermore, we found the listing of a Sacramento–San Joaquin River estuary DPS was also not warranted because we determined that the population was not biologically significant to the species as a whole, and did not appear to be sufficiently reproductively isolated.

### Species Information

#### *Description and Taxonomy*

The longfin smelt (*Spirinchus thaleichthys*), a member of the true smelt family Osmeridae, can be distinguished from other smelts occurring in California by its weak or absent striations on the operculum (bony plates which supports the gill cover), incomplete lateral line, low number of lateral line scales, and long maxillary bones (McAllister 1963, p. 10; Moyle 2002, pp. 234–235). The pectoral fins often extend as far as the base of the pelvic fins, and the maxillary bones reach underneath the eyes. This fish, which often reaches 6 inches (in) (15 centimeters (cm)) in length, has translucent silver sides and an olive to iridescent pink back.

The longfin smelt is one of three species in its genus; the night smelt (*Spirinchus starksi*) occurs in California, and the shishamo (*S. lanceolatus*)

occurs in northern Japan (McAllister 1963, pp. 10 and 15). Because of its distinctive characteristics, the Delta population of longfin smelt was once described as a species separate from more northern populations (Moyle 2002, p. 235). McAllister (1963, p. 12) merged the two species because differences in characteristics represented a north-south gradient of variation in these characteristics rather than a discrete set; subsequent studies showed that populations from Washington State and the San Francisco Bay-Delta are similar genetically (Stanley et al. 1995, p. 390). However, the San Francisco Bay population is geographically distant from the nearest northern sustainable population and differs in gene frequencies from populations in Washington State (Stanley et al. 1995, p. 390). As presently described, this species' range extends from the San Francisco Bay-Delta, California, to Prince William Sound, Alaska (Moyle 2002, pp. 235-236).

#### *Habitat and Life History*

The longfin smelt is an anadromous euryhaline species (i.e., tolerant to a wide range of salinities, from freshwater to pure sea water), with a 2-year life cycle (Moyle 2002, p. 236). Spawning occurs in freshwater over sandy-gravel substrate, rocks, or aquatic plants. Spawning may take place as early as November and extend into June, although the peak spawning period is from February to April. Eggs adhere to the bottom substrate, but the larvae inhabit open ocean. Once hatched, the larvae are transported by flows from spawning areas to nursery habitat. The principal nursery habitats for larvae are the productive waters of Suisun and San Pablo Bays, where freshwater outflow and saltwater mixes. Adults are found mainly in Suisun, San Pablo, and San Francisco Bays, although their distribution is shifted upstream in years of low river outflows. Sacramento-San Joaquin River outflow into the bays has been positively correlated with longfin smelt recruitment; the possible mechanism behind this relationship is unclear (Stevens and Miller 1983, p. 432; Kimmerer 2002a, p. 48; Kimmerer 2002b, pp. 1275 and 1283).

#### *Population Trends*

The petition cites the California Department of Fish and Game (CDFG) Fall Midwater Trawl (FMWT) survey as a measure of longfin smelt abundance. The average abundance index from 1967 to 1986 was 17,616, and 17,485 from 1980 to 1986. However, the petition reports that the average abundance index declined to 537 from 1987 to

1994, possibly as a result of extended drought conditions and increased water exports. During the following 5 years (1995 to 2000), the average abundance index increased to 4,343, and from 2001 to 2006 the average abundance index declined to 569. The petition states the average abundance index from 2001 to 2006 is 87 percent lower than the average abundance index from 1995 to 2000.

#### *Distinct Population Segment*

We consider a species for listing under the Act if available information indicates such an action might be warranted. "Species" is defined in section 3 of the Act to include any subspecies of fish, wildlife, or plant, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532 (16)). Along with the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration—Fisheries), we developed the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS Policy) (February 7, 1996; 61 FR 4722) to help determine what constitutes a DPS. The policy identifies three elements that we are to consider in making a DPS determination. These elements include: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing. If we determine that a population segment meets the discreteness and significance standards, then the level of threat to that population segment is evaluated based on the five listing factors established by the Act to determine whether listing the DPS as either threatened or endangered is warranted.

#### **Discreteness**

Citing the Services' DPS policy (61 FR 4722), the August 2007 petition asserts that the San Francisco Bay-Delta population of the longfin smelt qualifies as a DPS based on discreteness. The DPS policy states that a population may be considered discrete if it satisfies either one of the following conditions:

- (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.
- (2) It is delimited by international governmental boundaries within which

differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

The petitioners claim the San Francisco Bay-Delta population of longfin smelt is discrete based on the first criterion, because there is no evidence that large numbers of longfin smelt migrate between populations within their range in the eastern Pacific or along the California coast. Additionally, they cite survey data indicating longfin smelt populations within several hundred miles of the San Francisco Bay-Delta are small and possibly declining, which leads the petitioners to conclude that it is unlikely that longfin smelt in the San Francisco Bay-Delta are supplemented by immigration from other areas. The petitioners cite Stanley et al. (1995, p. 395), who concluded from gene frequency analysis and reproductive and behavioral analysis that the San Francisco Bay-Delta longfin smelt population and the Humboldt Bay population (the nearest possible reproducing population) differ significantly and that gene flow between the two populations is restricted. Additionally, the petitioners cite Moyle (2002, p. 235) who concluded that the longfin smelt in the San Francisco Bay-Delta are reproductively isolated from other population units.

The Services' DPS policy requires that only one of the discreteness criteria be satisfied in order for a population of a vertebrate species to be considered discrete. After reviewing the information provided in the petition, we believe the petition presents substantial information that the San Francisco Bay-Delta longfin smelt population may be physically isolated from other longfin smelt populations and may be genetically distinct; therefore, we find that there is substantial information indicating the longfin smelt population in the San Francisco Bay-Delta may satisfy the discreteness element of the DPS policy.

#### **Significance**

If we determine that a population meets the DPS discreteness element, we then consider if it also meets the DPS significance element. The DPS policy (61 FR 4722) states that if a population segment is considered discrete under one or more of the discreteness criteria, its biological and ecological significance will be considered in light of Congressional guidance that the authority to list DPSs be used "sparingly" while encouraging the conservation of genetic diversity. In

making this determination, we consider available scientific evidence of the discrete population's importance to the taxon to which it belongs. Since precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy does provide four possible reasons why a discrete population may be significant. As specified in the DPS policy (61 FR 4722), this consideration of the significance may include, but is not limited to, the following:

- (1) Persistence of the discrete population segment in an ecological setting unusual or unique to the taxon;
- (2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;
- (3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or
- (4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

The petitioners claim the San Francisco Bay-Delta population of longfin smelt is significant because: (1) It inhabits an ecological setting unique relative to other longfin smelt populations; (2) it represents the southernmost spawning population of longfin smelt, and loss of this population would result in a significant gap in the range of the species; (3) Stanley et al. (1995, p. 395) found significant differences in gene frequency between populations in Washington State and the San Francisco Bay-Delta, leading them to conclude the San Francisco Bay-Delta population of longfin smelt are genetically distinct; (4) the San Francisco Bay-Delta contains a suite of predators and competitors not found in other populations, and this may have resulted in unique evolutionary characteristics; and (5) it is an indicator of the health of the San Francisco Bay-Delta and important component of the food web.

After reviewing the information provided in the petition, we believe the petition presents substantial information to indicate that the San Francisco Bay-Delta longfin smelt population may be significant. We have made this determination because of (1) The species occurs in a unique ecological setting; (2) the San Francisco Bay-Delta represents the southernmost spawning population for the species,

and the loss of the population may result in a significant gap in the range of the species; and (3) the genetic characteristics of the species may be unique from other populations of longfin smelt, and the loss of this population may result in the loss of potential unique adaptive or genetic characteristics of the species. Therefore, we find that there is substantial information indicating the San Francisco Bay-Delta population of longfin smelt may satisfy the significance element of the DPS policy.

#### **DPS Conclusion**

We have reviewed the information presented in the petition, and have evaluated the information in accordance with 50 CFR 424.14(b). In a 90-day finding, the question is whether a petition presents substantial information that the petitioned action may be warranted. We do not make final determinations regarding DPSs at this stage; rather, we determine whether a petition presents substantial information that a population may be a DPS. Based on our review, we find that the August 2007 petition presents substantial scientific or commercial information to indicate that the San Francisco Bay-Delta population of longfin smelt may be a DPS based on its separation from other populations of longfin smelt, the unique setting in which it occurs, and potential genetic differences between the San Francisco Bay-Delta population and other longfin smelt populations (Stanley et al. 1995, p. 395), which may meet both the discreteness and significance criteria of the DPS policy, and thus may be a listable entity under the Act. To meet the third element of the DPS policy, we evaluate the level of threat to the DPS based on the five listing factors established by the Act. We thus proceeded with an evaluation of information presented in the petition to determine whether there is substantial scientific or commercial information indicating that listing this population may be warranted.

#### **Factors Affecting the Species**

The petition and supporting information describes a variety of factors affecting the Delta ecosystem that have led to the decline of the San Francisco Bay-Delta population of the longfin smelt. Principal among these factors are the altered hydraulics and reduced outflow of the Delta caused by export of freshwater from the Sacramento and San Joaquin Rivers by the Federal and State water diversions (Factor A). Additional threats to the species include entrainment at other

water diversions within the Delta (Factor A); lethal and sub-lethal effects of toxic chemicals (Factor E); direct and indirect impacts of non-native species on the longfin smelt food supply and habitat (Factors A and C); physical disturbance of spawning substrate and the habitat of their prey species from instream activities such as dredging (Factor A); mortality, injury, and disruption of normal behavior caused by pile driving (Factor A); and warming of estuary waters (Factor E). The petition also discussed existing regulatory mechanisms and their perceived inadequacy (Factor D).

#### **Determination**

The petition and supporting information have identified numerous factors affecting the San Francisco Bay-Delta population of the longfin smelt and the Delta ecosystem, including: Water diversions; entrainment of fish in pumping facilities; toxic chemicals; non-native species competition and predation; disturbance of spawning habitat through dredging or pile driving; and lack of regulatory mechanisms protecting the species and its habitat.

The export of freshwater from the Sacramento and San Joaquin Rivers by the Federal and State water diversions (Factor A) alters the hydraulics and saline conditions of the Delta estuary and reduces outflow through San Francisco Bay, thereby affecting the habitat conditions the species requires. Entrainment at water diversion facilities within the Delta (Factor A) may lead to direct loss of the species. The effects of toxic chemicals (Factor E) within the San Francisco Bay-Delta may be a factor influencing habitat availability and quality, reproduction success, and food availability for the species. Non-native fish species may be causing higher levels of predation of the species (Factors A and C) and affecting the species' food supply. Habitat disturbance of longfin spawning substrate and the habitat of their prey species caused by instream activities such as dredging and pile driving (Factor A) may be a factor affecting the species. The warming of estuary waters (Factor E) may be affecting the species by altering habitat condition for spawning and influencing water supply conditions for the species. The petition also discussed existing regulatory mechanisms and their perceived inadequacy (Factor D). The effects of all these factors may be causing the San Francisco Bay-Delta population of the longfin smelt to decline. According to recent fish survey information collected by CDFG, the average catch from 2001 to 2006 was 84 to 87 percent lower than

the average catch from 1995 to 2000 (CDFG 2008, pp.1–4).

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) of our regulations is limited to the determination of whether information meets the “substantial scientific and commercial information” threshold, 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). On the basis of information provided in the petition and other information readily available to us, we have determined that the petition presents substantial scientific or commercial information that the San Francisco Bay-Delta longfin smelt population may be a distinct population segment and that listing the San Francisco Bay-Delta longfin smelt population as endangered may be warranted. Therefore, we are initiating a status review to determine if listing the species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species.

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 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 will also be positive.

The petitioners also requested that critical habitat be designated for this species. We always consider the need for critical habitat designation when listing species. If we determine in our 12-month finding that listing the longfin smelt is warranted, we will address the designation of critical habitat in a subsequent proposed rule.

#### Significant Portion of the Species’ Range

The Petitioner seeks to list the entire San Francisco Bay-Delta longfin smelt population. During our status review we will evaluate whether the information provided and in our files supports

listing and whether there may be a portion of the longfin smelt’s range that may be significant. As a result we will leave our analysis and determination of issues of significant portion of range to the 12-month finding.

#### References Cited

A complete list of all references cited herein is available, upon request, from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

#### Author

The primary authors of this notice are staff of the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, CA 95825.

#### Authority

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

Dated: April 28, 2008.

#### Kenneth Stansell,

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

[FR Doc. E8–9835 Filed 5–5–08; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS–R1–ES–2008–0048; 1111 FY07 MO B2]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List Kokanee (*Oncorhynchus nerka*) in Lake Sammamish, Washington, as Threatened or Endangered

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

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Lake Sammamish kokanee (*Oncorhynchus nerka*) as a threatened or endangered species under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the Lake Sammamish kokanee may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding on our determination as to whether the petitioned action is warranted. To

ensure that the status review is comprehensive, we are soliciting information and data regarding this species. We will make a determination on critical habitat for this species if, and when, we initiate a listing action.

**DATES:** We made the finding announced in this document on May 6, 2008. We will accept comments received or postmarked on or before July 7, 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–R1–ES–2008–0048]; 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 information received at <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Ken Berg, Manager, Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503; telephone 360–753–6039; facsimile at 360–753–9405. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the Lake Sammamish kokanee. We are seeking information regarding the species’ historical and current status and distribution, its biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, agricultural and forestry groups, conservation groups, or any other interested parties concerning the status of the Lake Sammamish kokanee.