

From: [Shoemaker, Justin](#)
To: [Seth Willey](#); [Sarah Backsen](#); [Serena Baker](#)
Subject: Fwd: Update: Nov 90-Day Batching
Date: Monday, November 30, 2015 7:50:42 AM
Attachments: [20151130_BP_Nov2015Batch_FINAL.docx](#)

FYI

Justin Shoemaker
Senior Listing Biologist
U.S. Fish and Wildlife Service, Region 6
1511 47th Avenue, Moline, IL 61265
Phone: 309-757-5800 ext. 214
Email: justin_shoemaker@fws.gov

----- Forwarded message -----

From: **Evans, Jessica** <jessica_evans@fws.gov>
Date: Mon, Nov 30, 2015 at 8:33 AM
Subject: Update: Nov 90-Day Batching
To: Kit Hershey <kit_hershey@fws.gov>, Sarah Quamme <sarah_quamme@fws.gov>, Laura Ragan <laura_ragan@fws.gov>, Robert Tawes <robert_tawes@fws.gov>, Krishna Gifford <krishna_gifford@fws.gov>, Seth Willey <seth_willey@fws.gov>, Justin Shoemaker <justin_shoemaker@fws.gov>, Drew Crane <drew_crane@fws.gov>, Arnold Roessler <arnold_roessler@fws.gov>, Alisa Shull <alisa_shull@fws.gov>, Andreas Moshogianis <andreas_moshogianis@fws.gov>
Cc: Bridget Fahey <bridget_fahey@fws.gov>, Douglas Krofta <douglas_krofta@fws.gov>, Don Morgan <don_morgan@fws.gov>, Janine Van Norman <janine_vannorman@fws.gov>, Brian Hires <brian_hires@fws.gov>, Gavin Shire <gavin_shire@fws.gov>, Ron Vandervort <Ron_Vandervort@fws.gov>, Emily Weller <emily_weller@fws.gov>, Ellen VanGelder <ellen_vangelder@fws.gov>, Natchanon Ketram <natchanon_ketram@fws.gov>

Good Morning All -

I hope everyone had a wonderful Thanksgiving!

Update on the Nov 90-day batch:

We will be pulling the following 8 species from this batch to address some SOL comments:

Arizona night lizard
Bezy's night lizard
Cheoah bald salamander
Cow Knob salamander
Florida scrub salamander
Fourche night lizard
Reticulate collared night lizard
South Mountain gray-cheeked salamander

We will be moving these findings to the February batch (expected pub in Feb 2015 - for additional details on the Feb batch, please contact Ron Vandervort).

Please find the final version of the briefing paper for the November batch attached. We have 11 substantial findings and 6 not-substantial findings that will be included.

We currently anticipate sending the findings to the FR on Friday, Dec. 11, 2015. This gives us an estimated FR publication date of Thursday, Dec. 17, 2015.

I am currently working on assembling the final signed PRFs to be uploaded into regulations.gov and I will send the final versions to their respective ROs when completed. Please note that these are not to be distributed until the findings publish.

I have tried to make sure I've included everyone on this email; however, if I missed someone, please feel free to forward this email.

As always, don't hesitate to contact me if you have any questions. Thank you!

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Jessi Evans
Biologist
Branch of Foreign Species
Ecological Services
U.S. Fish and Wildlife Service
Falls Church, VA
(703)358-2141

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"Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible." - Francis of Assisi

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On Mon, Nov 16, 2015 at 11:40 AM, Evans, Jessica <jessica_evans@fws.gov> wrote:

Good Morning All - Update on the Nov batch. Due to ongoing discussion with SOL and management on several of the findings, we have moved the target FR date to December 11, 2015. I have no additional information as of right now but will continue to send updates as I receive them. Thank you for your patience, and as always, feel free to contact me if you have any questions.

--

Jessi Evans
Biologist
Branch of Foreign Species
Ecological Services

U.S. Fish and Wildlife Service
Falls Church, VA
(703)358-2141

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On Thu, Nov 12, 2015 at 12:00 PM, Evans, Jessica <jessica_evans@fws.gov> wrote:
Good Morning All - I just wanted to send out an email and thank you for your patience. We currently have no updates on the Nov batch but I wanted to reassure you that I will let you know as soon as I have new information. Please dont hesitate to ask if you have any questions.

--

Jessi Evans
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INFORMATION MEMORANDUM FOR THE DIRECTOR

FROM: Gary Frazer, Assistant Director, Ecological Services

SUBJECT: 90-day petition findings for 17 species

I. INTRODUCTION

The U.S. Fish and Wildlife Service (Service), announces 90-day findings on 17 petitions to list, delist, or reclassify fish, wildlife, or plants under the Endangered Species Act of 1973, as amended (Act).

Based on our review, we find that six (6) petitions (Cabinet-Yaak grizzly bear (two (2) petitions); Colorado Desert fringe-toed lizard; Kings River slender salamander; sandstone night lizard; and the Yellowstone bison) did not present substantial scientific or commercial information indicating that the petitioned actions may be warranted, and we are not initiating status reviews in response to these petitions.

We find that eleven (11) petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. These include: Culebra skink, Great Basin butterfly; Greater Saint Croix skink, Greater Virgin Islands skink, Lesser Saint Croix skink, Mona skink, narrow-footed diving beetle; Northern Rocky Mountain DPS of fisher; Puerto Rico skink, Scott riffle beetle, and the Virgin Island bronze skink. Therefore, with the publication of this notice, we are initiating a review of the status of these species to determine if the petitioned actions are warranted. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species. Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

The target for submitting this batched finding to the *Federal Register* is December 11, 2015.

II. BACKGROUND

The attached table lists the species, their ranges, and the petitioner(s) for each species.

Summary regarding the not substantial findings:

Cabinet-Yaak grizzly bear (petition to delist). On July 27, 2015, Lincoln County, Montana petitioned the Service to delist the Cabinet-Yaak grizzly bear due to recovery under the Endangered Species Act (Act) and to update the recovery plan. The grizzly bear (*Ursus arctos horribilis*) is a member of the brown bear species (*Ursus arctos*) that occurs in North America, Europe, and Asia; the subspecies *U. a. horribilis* is limited to North America. Prior to the arrival of Europeans, the grizzly bear occurred throughout much of the western half of the contiguous U.S., central Mexico, western Canada, and most of Alaska. The range and numbers of grizzly

bears were reduced to less than 2% of their historical levels by the 1930s, approximately 125 years after first contact with European settlers. In the lower 48 states, grizzly bear recovery focuses on six ecosystems: the Greater Yellowstone Area, the Northern Continental Divide, the Northern Cascades, the Selkirks, the Cabinet-Yaak, and the Bitterroot.

Habitat modification, human-caused mortality, inadequacy of regulatory mechanisms, small population dynamics, and population fragmentation are concerns to this grizzly bear population. The Cabinet-Yaak grizzly bear population appears to be responding to recovery actions with improvements in both population and habitat protections in recent years. As of 2014, we have a positive trend (increasing at a rate of 1.4%) in the native bear population, which has improved from a declining trend since 1999. However, the Cabinet-Yaak grizzly bear population still faces threats from limited range and limited population size.

Guided by the five listing factors, we evaluated potential threats to the Cabinet-Yaak grizzly bear using the information presented by the petitioner and the sources cited within the petition:

- The present or threatened destruction, modification, or curtailment of habitat or range is still a threat to Cabinet-Yaak grizzly bears, although the threat is diminished because there are clear, enforceable motorized access standards and secure habitat standards and a timeline to achieve them. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action (delisting) may be warranted based on Factor A.
- Human-caused mortality is responsible for the majority of Cabinet-Yaak grizzly bear deaths, although the population appears to be responding to protective measures that reduce human-caused mortality, particularly female mortality. Trend calculations indicate positive population growth in 2014. Although human-caused mortality has decreased, all recovery targets are not being met and this source of mortality may still pose a threat to this population in the future. We find that the petition does not present substantial scientific or commercial information indicating that delisting may be warranted based on Factor C.
- Implementation of National Forest motorized access management and food storage orders on public lands has improved the adequacy of regulatory mechanisms. However, not all bear management units currently meet the management objectives set by these plans, but are scheduled to do so by 2019. We find that the information provided in the petition does not present substantial scientific or commercial information indicating that delisting may be warranted based on Factor D.
- We did not find substantial information that delisting may be warranted due to threats from overutilization (Factor B) or other natural or manmade factors (Factor E).

Based on the evaluation of the petition, we did not find the petition presented substantial information indicating the petition action may be warranted. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, XXXXXX.

Cabinet-Yaak grizzly bear (petition to uplist to endangered). On December 17, 2014, the Alliance for the Wild Rockies petitioned the Service to reclassify the Cabinet-Yaak grizzly bear as endangered and designate critical habitat for this species under the Endangered Species Act (Act). The grizzly bear (*Ursus arctos horribilis*) is a member of the brown bear species (*Ursus arctos*) that occurs in North America, Europe, and Asia; the subspecies *U. a. horribilis* is limited

to North America. Prior to the arrival of Europeans, the grizzly bear occurred throughout much of the western half of the contiguous U.S., central Mexico, western Canada, and most of Alaska. The range and numbers of grizzly bears were reduced to less than 2% of their historic levels by the 1930s, approximately 125 years after first contact with European settlers. In the lower 48 states, grizzly bears are currently limited to six ecosystems: the Greater Yellowstone Area, the Northern Continental Divide, the Northern Cascades, the Selkirks, the Cabinet-Yaak, and the Bitterroot.

Habitat modification, human-caused mortality, small population dynamics, and population fragmentation contributed to the decline in grizzly bear numbers. However, the Cabinet-Yaak grizzly bear population appears to be responding to recovery actions with improvements in both population and habitat protections in recent years. As of 2014, there is a positive trend (increasing at a rate of 1.4%) in the native bear population, which has improved from a declining trend since 1999.

Guided by the five listing factors, we evaluated potential threats to the Cabinet-Yaak grizzly bear using the information presented by the petitioner and the sources cited within the petition:

- The present or threatened destruction, modification, or curtailment of habitat or range is still a threat to Cabinet-Yaak grizzly bears, but the threat is diminished because there are clear, enforceable motorized access standards and secure habitat standards and a timeline to achieve them. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted based on Factor A.
- Human-cause mortality is responsible for the majority of Cabinet-Yaak grizzly bear deaths the population appears to be responding to protective measures that reduce human-caused mortality, particularly female mortality. Trend calculations indicate positive population growth in 2014. Although human-caused mortality may still pose a threat to this population in the future, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted based on Factor C.
- We will continue to monitor the genetic status of Cabinet-Yaak grizzly bears because declines in genetic diversity are expected in small and/or isolated populations. However, because detectable deleterious effects are not occurring at the current levels of genetic diversity, we do not consider genetic status to be a threat. We find that the information provided in the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted based on Factor E.
- We did not find substantial information that reclassification may be warranted due to threats from overutilization (Factor B) or the inadequacy of regulatory mechanisms (Factor D).

Based on the evaluation of the petition, we did not find the petition presented substantial information indicating the petition action may be warranted. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, XXXXXXXX.

Colorado Desert fringe-toed lizard. On July 11, 2012, we received a petition from the Center for Biological Diversity, requesting the Colorado Desert fringe-toed lizard be listed as threatened or endangered under the Act. The petitioner identified habitat degradation (via recreational vehicle use, development, windbreaks, and agriculture) (A), and inadequacy of existing

regulatory mechanisms (D) to be the factors impacting the species. However, most of the information presented in the petition, and a majority of the references, referenced localized impacts on habitat and did not suggest that they might be resulting in a species-level effect on the lizard such that it may be in danger of extinction or likely to become so. Additionally, the absence of a regulation to address a particular threat is not considered an inadequacy of regulatory mechanisms. No further information was provided in the petition or supplemental to the petition to demonstrate the likelihood that the identified threats are impacting Colorado Desert fringe-toed lizard. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, FWS-R8-ES-2015-0082.

Kings River slender salamander. On July 11, 2012, we received a petition from the Center for Biological Diversity, requesting the Kings River slender salamander be listed as threatened or endangered under the Act. The petitioner identified habitat loss and degradation (via road construction) (A), inadequacy of existing regulatory mechanisms (D), and small, isolated population dynamics, climate change, and road mortality (E) to be the factors impacting the species. However, most of the information presented in the petition, and a majority of the references, were either not provided or were not relevant to the Kings River slender salamander or its habitat. Additionally, the petitioner did not identify any regulatory mechanisms in place; the absence of a regulation to address a particular threat is not considered an inadequacy of regulatory mechanisms. No further information was provided in the petition or supplemental to the petition to demonstrate the likelihood that the identified threats are impacting Kings River slender salamander at the species-level indicating the Kings River slender salamander may warrant listing. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, FWS-R8-ES-2015-0094.

Sandstone night lizard. On July 11, 2012, we received a petition from the Center for Biological Diversity, requesting the sandstone night lizard be listed as threatened or endangered under the Act. The petitioner identified habitat fragmentation (via roads) (A), inadequacy of existing regulatory mechanisms (D), and isolation and loss of genetic diversity, and road mortality (E) to be the factors impacting the species. However, most of the information presented in the petition, and a majority of the references, were either not provided or were not relevant to the sandstone night lizard or its habitat. Additionally, the petitioner did not provide any information indicating that existing regulatory mechanisms meant to provide protection to the species or its habitat are inadequate such that it is negatively impacting the species. No further information was provided in the petition or supplemental to the petition to demonstrate the likelihood that the identified threats are impacting sandstone night lizard at the species-level indicating the sandstone night lizard may warrant listing. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, FWS-R8-ES-2015-0113.

Yellowstone bison. On November 13, 2014, we received a petition from the Western Watersheds Project & Buffalo Field Campaign, requesting the Yellowstone (YNP) population of bison be listed as an endangered Distinct Population Segment (“DPS”) of plains bison, *Bison bison bison*. On March 2, 2015, we received a second petition dated March 2, 2015, from Mr. James A. Horsley, requesting that the Yellowstone National Park bison be listed as threatened or endangered under the Act. This finding addresses both above petitions as they request the same action for the same entity.

Compared to other bison populations across North America that are managed similar to livestock, YNP bison are unique because they are closely integrated with the natural processes of the landscape in which they reside. In the late 1800s, North American bison were hunted to near extinction, save a few remaining individuals in YNP. Through supplementing from other herds and their protection in YNP, the herd now ranges from 2,500-4,500 individuals annually and its status is stable-to-increasing. During the winter, YNP bison frequently move beyond YNP boundaries into cattle grazing areas. Concerns for the spread of brucellosis, a disease transmitted from bison to cattle, in the spring when the two species may occupy the same areas, led to the development of the Interagency Bison Management Plan (IBMP) in 2000. The IBMP prevents the spread of brucellosis by annually hazing bison back into YNP and culling others.

The petitions did not present scientific or commercial information indicating this action may be warranted. Additional information regarding the finding and the information reviewed can be found at www.regulations.gov under docket number, FWS-R6-ES-2015-0123.

Since our 2011 position that the YNP bison may not be considered a DPS, new citations provided by the petitioners' present substantial information that the YNP bison may qualify as a DPS. Guided by the five listing factors, we then assessed potential threats to the YNP bison using the information presented by the petitioners and the sources cited within the petitions. The lethal control of YNP bison under the IBMP was the primary concern expressed by the petitioners and threats related to these activities and others were evaluated:

- The petitioners claimed IBMP management activities threaten the YNP bison and these concerns were addressed as they relate to range curtailment (Factor A); hunting and culling (Factor B); and disease management (Factor C). However, we found no substantial information suggesting IBMP activities are a threat to the YNP bison such that listing the DPS may be warranted.
- In addition, we found no substantial information that listing may be warranted due to threats from livestock grazing, development and infrastructure, and invasive species (Factor A); disease and predation (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); or genomic extinction and climate change (Factor E).

III. Potential Issues

Cabinet –Yakk Grizzly: The Service received two petitions for this population of grizzly, one to uplist, and one to delist. Given the species is charismatic in nature, it will generate some level of interest from the public. Local controversy may arise due to concerns about Federal intrusion and economics. Currently, the population does not warrant endangered status, nor does it currently warrant delisting; the current status is biologically and legally correct. Given the findings for both petitions are publishing together, it is believed the overall interest will be lower than other grizzly bear announcements.

Yellowstone Bison: Most of the controversy regarding the Yellowstone bison are related to when the bison migrate from the park (where they are not protected), and concern regarding brucellosis spreading to cattle. Interest in this finding is expected to be modest; animal rights groups and ranching stakeholders may have an interest in this finding. Numerous Federal, State, Tribal, and private land and wildlife managers may be impacted by changes in YNP bison

management plans. However, no additional parties other than the petitioners have expressed interest concerning a negative 90-day finding.

IV. COMMUNICATIONS AND OUTREACH

- Headquarters-External Affairs will send out a basic 90-day batched bulletin and will leave species-specific outreach to the Regions.
- Each Petition Review Form identifies an appropriate Outreach contact.

Table 1. List of species included in the September batch of 90-day petition findings.

Common name	Range	Lead Region	Regional Outreach Contact person (Name, phone and Email)	Petitioner
Colorado Desert Fringe-toed Lizard	CA	8	Pam Bierce, (916) 414-6542	Center for Biological Diversity
Culebra Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Great Basin butterfly	CO, UT	6	Serena Baker, 303-236-4588	WildEarth Guardians
Greater Saint Croix Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Greater Virgin Islands Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Grizzly bear (Cabinet-Yaak population)	MT, ID	6	Ryan Moehring, 303-236-0345	(Delist) Lincoln County Commissioners
Grizzly bear (Cabinet-Yaak population)	MT, ID	6	Ryan Moehring, 303-236-0345	(Uplist) Alliance for the Wild Rockies
Kings River Slender Salamander	CA	8	Pam Bierce, (916) 414-6542	Center for Biological Diversity
Lesser Saint Croix Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Mona Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Narrow-foot diving beetle	WY	6	Serena Baker, 303-236-4588	WildEarth Guardians

Northern Rockies population of fisher	MT, ID	6	Serena Baker, 303-236-4588	Center for Biological Diversity, Defenders of Wildlife, Friends of the Bitterroot, Friends of Clearwater, Western Watersheds Project, Friends of Wild Swan
Puerto Rican Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Sandstone Night Lizard	CA	8	Pam Bierce, (916) 414-6542	Center for Biological Diversity
Scott Riffle beetle	KS	6	Serena Baker, 303-236-4588	Center for Biological Diversity
Virgin Islands Bronze Skink	Caribbean	4	Jennifer Strickland, 404-679-7299	Center for Biological Diversity
Yellowstone bison	WY	6	Serena Baker, 303-236-4588	Western Watersheds and Buffalo Field Campaign