

clause and does not impose an economic impact beyond that addressed in the current clause.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) is not applicable because the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1852

Government Procurement.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Part 1852 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 1852 continues to read as follows:

Authority: 42 U.S.C. 2455(a), 2473(c)(1).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 1852.247–71 is revised to read as follows:

§ 1852.247–71 Protection of the Florida Manatee. As prescribed in 1847.7001, insert the following clause:

PROTECTION OF THE FLORIDA MANATEE (XX/XX)

(a) Pursuant to the Endangered Species Act of 1973 (Pub. L. 93–205), as amended, and the Marine Mammals Protection Act of 1972 (Pub. L. 92–522), the Florida Manatee (*Trichechus Manatus*) has been designated an endangered species, and the Indian River Lagoon system within and adjacent to National Aeronautics and Space Administration's (NASA's) Kennedy Space Center (KSC) has been designated as a critical habitat of the Florida Manatee. The KSC Environmental Management Branch will advise all personnel associated with the project of the potential presence of manatees in the work area, and the need to avoid collisions and/or harassment of the manatees. Contractors shall ensure that all employees, subcontractors, and other individuals associated with this contract and who are involved in vessel operations, dockside work, and selected disassembly functions are aware of the civil and criminal penalties for harming, harassing, or killing manatees.

(b) All contractor personnel shall be responsible for complying with all applicable Federal and/or state permits (*e.g.* Florida Department of Environmental Protection [FDEP], St. Johns River Water Management District [WMD], Fish & Wildlife Service [FWS]) in performing water-related activities within the contract. Where no Federal and/or state permits are required for said contract, and the contract scope requires activities within waters at KSC, the Contractor shall obtain a KSC Manatee Protection Permit from the Environmental Management Branch. All conditions of Federal, state, and/or KSC

regulations and permits for manatee protection shall be binding to the contract. Notification and coordination of all water related activities at KSC will be done through the Environmental Management Branch.

(c) The Contractor shall incorporate the provisions of this clause in applicable subcontracts.

(End of clause)

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R8–ES–2008–0112; MO 9221050083–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Sacramento Valley Tiger Beetle as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Sacramento Valley tiger beetle (*Cicindela hirticollis abrupta*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing the Sacramento Valley tiger beetle may be warranted. Therefore, we will not be initiating a further status review in response to this petition. However, we ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the Sacramento Valley tiger beetle or its habitat at any time.

DATES: The finding announced in this document was made on October 24, 2008.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov>. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825–1846. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT:

Susan Moore, Field Supervisor, or Arnold Roessler, Listing Branch Chief, of the Sacramento Fish and Wildlife Office (see **ADDRESSES**), by telephone at (916) 414–6600, or by facsimile to (916) 414–6712. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

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 the 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 50 CFR 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the “substantial information” threshold.

Petition History

On May 14, 2003, we received a petition, dated May 13, 2003, from Mr. John Mendoza of Chico, California, requesting we emergency list the Sacramento Valley tiger beetle as an endangered species. The petition clearly identified itself as such and included the requisite identification information

of the petitioner required at 50 CFR 424.14(a). In our July 9, 2003, response letter to Mr. Mendoza, we explained that we had reviewed the petition and determined that an emergency listing was not warranted, and that due to court orders and judicially approved settlement agreements, we would not be able to further address the petition to list the Sacramento Valley tiger beetle at that time, but would complete the action when workload and funding allowed. This finding addresses the petition.

Previous Federal Actions

We had included the Sacramento Valley tiger beetle as a candidate (Category 2) for Federal listing as either threatened or endangered in the 1994 Candidate Notice of Review (CNOR) (59 FR 58981, November 15, 1994, p. 59014). Category 2 status included those taxa for which information in the Service's possession indicated that a proposed listing rule was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support a proposed rule. In the CNOR published on February 28, 1996, we announced a revised list of animal and plant taxa that were regarded as candidates for possible addition to the Lists of Endangered and Threatened Wildlife and Plants (61 FR 7595). The revised candidate list included only former Category 1 species. All former Category 2 species were dropped from the list in order to reduce confusion about the conservation status of these species, and to clarify that the Service no longer regarded these species as candidates for listing. Because the Sacramento Valley tiger beetle was a Category 2 species, it was no longer recognized as a candidate species as of the February 28, 1996, CNOR.

Species Information

Subspecies Description

The Sacramento Valley tiger beetle is one of 11 recognized subspecies of the hairy-necked tiger beetle (*Cicindela hirticollis*), so called because of the small white hairs on the side of the thorax (the middle of three body sections in insects) (Pearson *et al.* 2006, p. 71). Hairy-necked tiger beetles are medium-sized beetles approximately 10 to 15 millimeters (mm) (0.4 to 0.6 inches (in)) long, with cream-colored maculations (spots and squiggles) on their wing covers (elytra).

The Sacramento Valley tiger beetle is distinguished most easily by its dark blackish-brown background color, and by the two G-shaped maculations at the

front of the elytra (Pearson *et al.* 2006, p. 72). These maculations tend to be strongly hooked, and separate from a line running along the outer elytral edge. The Sacramento Valley tiger beetle was first described as a subspecies in 1913 (Casey 1913, p. 31), and its subspecies status was confirmed by Graves *et al.* in 1988 (Graves *et al.* 1988, pp. 660–661).

Distribution

The petition did not provide any information on the Sacramento Valley tiger beetle's distribution or life history. However, from information in our files, we know that although the hairy-necked tiger beetle is distributed widely across North America, the Sacramento Valley tiger beetle is only known from five locations in the Sacramento Valley of California (Knisley 2004, p. 8, fig. 1, table 1; Pearson *et al.* 2006, p. 74; CNDDDB 2007, pp. 1–5). Three of the five locations are in or near the cities of: Colusa, in Colusa County; Nicolaus, in Sutter County; and Davis, in Yolo County. A fourth location is along the Feather River, about 6 miles (10 kilometers) southwest of Nicolaus, in Sutter County. The fifth location does not appear in the California Natural Diversity Database (CNDDDB), but is supported by various collection specimens examined by Knisley (2004, p. 8, table 1). The specimens were variously labeled "Sacramento" and "Sacramento, west", and so may come from either the City of Sacramento, in Sacramento County, or West Sacramento, in Yolo County. Knisley stated they were probably from West Sacramento (Knisley 2004, p. 8, fig. 1), but he also indicated they may have come from Discovery Park, which is in the city of Sacramento (Knisley 2004, p. 8).

The CNDDDB lists the Nicolaus site as historically supporting the largest known population, with over 250 individuals seen in 1984, but it is difficult to make comparisons since population estimates for other sites were not recorded (Knisley 2004, table 1; CNDDDB 2007, pp. 1–5). The Nicolaus site has also provided the majority of collection records (19 of 29), and was the location of the subspecies' last known siting on April 14, 1984 (Knisley 2004, p. 8, table 1; CNDDDB 2007, pp. 1–5). Existing records for other sites are much older, ranging from May 1918 in "Sacramento," to April 1959 at the site 6 miles (10 kilometers) southwest of Nicolaus (Knisley 2004, table 1).

Habitat and Life History

Although there is essentially no literature on the specific biology of the

Sacramento Valley tiger beetle, the hairy-necked tiger beetle species as a whole lives on sandy soils near water, including sandy riverbanks and sand bars (Graves *et al.* 1988, p. 647; Knisley 2004, p. 5; Knisley and Fenster 2005, p. 451). In relatively warmer areas of North America, including Virginia and presumably in California's Sacramento Valley, eggs are laid in early spring, and the grublike larvae hatch and pass through three molts prior to becoming adults in late summer (Knisley 2004, p. 6). Beginning in late September to mid-October, the adults overwinter in burrows they dig in the sand. They then re-emerge in early spring to mate and lay eggs (Knisley 2004, pp. 5, 6). They are not known to live through two winters as adults, although subspecies living in colder areas may overwinter their first year as larvae and overwinter a second year as adults. Both adults and larvae are predatory and feed on small arthropods such as ants, flies, and spiders (Knisley 2004, p. 6; Pearson *et al.* 2006, pp. 7, 8). Larvae dig burrows in the sand from which they ambush passing prey (Pearson *et al.* 2006, pp. 8, 9). Adults hunt during the day, running down prey items by sight and catching them with their large mandibles. They may also scavenge on dead organisms (Fenster and Knisley 2006, p. 2).

Status of the Species

The petition cites a February 2003 final draft report to the Service on the status of the Sacramento Valley tiger beetle as reported by Dr. C. Barry Knisley (Knisley 2003, pp. 1–19 plus appendices). The status review cited by the petition indicates that only three Sacramento Valley tiger beetles were found during comprehensive surveys of historically occupied sites and potential habitat within the subspecies' known range. However, a subsequently revised draft of the report (2004 revised report) explains that the surveys did not in fact find any Sacramento Valley tiger beetles, and concludes that the Sacramento Valley tiger beetle "must now be extinct from throughout its former range along the Feather and Sacramento Rivers and from other areas of potential range" (Knisley 2004, p. 10). Knisley explains in the 2004 revised report (Knisley 2004, p. 10), that the three "Sacramento Valley tiger beetles" previously reported were actually *Cicindela hirticollis grandid* collected at Point Reyes, California, and mistakenly placed by a colleague in a vial containing *C. oregona* tiger beetles from Nicolaus, California.

Knisley (2004, pp. 9–10) concluded the Sacramento Valley tiger beetle is extinct based on 4 years of surveys

(2001 to 2004) conducted during months and times when the adults should have been active (May to October). The surveys included all potential sites within the Sacramento Valley tiger beetle's known historic range, as well as many additional sites outside the subspecies' known range that contained the necessary habitat characteristics. The areas surveyed included stream reaches of the Kings River in Tulare, Kings, and Fresno Counties; San Joaquin River in Fresno, Madera, Stanislaus, San Joaquin, Sacramento, and Contra Costa Counties; American River in Sacramento County; Yuba River in Yuba County; Feather River in Yuba and Sutter Counties; and the Sacramento River in Shasta, Tehama, Glenn, Colusa, Sutter, Yolo, Sacramento, and Solano Counties. River sections deemed most likely to still support Sacramento Valley tiger beetles (based on remaining habitat and historic population locations) were surveyed four to six times each over 4 years. Over 150 different sites were surveyed from 2001 to 2004, including 130 sites in 2003–2004. Survey methods and conclusions were also published in a peer-reviewed journal (Knisley and Fenster 2005). Because the sandy shoreline habitat preferred by Sacramento Valley tiger beetles was easily identified and searched, there is a high likelihood the surveys would have accounted for year-to-year variation in population numbers and would have found Sacramento Valley tiger beetles had any remained extant. Knisley and Fenster (2005, p. 451) estimated the subspecies probably went extinct in the late 1980s to early 1990s.

Based on the best scientific information available, the most likely cause of the Sacramento Valley tiger beetle's extinction is habitat change brought about by construction of Oroville and Shasta dams (Knisley 2003, p. 15; Knisley 2004, p. 24; Knisley and Fenster 2005, p. 456; Fenster and Knisley 2006, pp. 19–20). Flow alterations established by these dams likely led to the gradual loss of fine-grained shoreline habitat due to reduction of sediment transport, reduced variability in water flow, and resulting increases to vegetation growth along the water's edge. Due to these factors, relatively little suitable habitat now remains along the Feather and Sacramento rivers within the Sacramento Valley tiger beetle's historic range (Knisley and Fenster 2005, p. 456). Flow releases are also likely to have resulted in prolonged flooding of large areas of remaining, suitable habitat, drowning larvae in their

burrows during summer months, and adults in their overwintering burrows during the winter (Fenster and Knisley 2006, p. 19). Both larvae and adults have adapted to short periods of immersion, such as might have resulted from heavy flows prior to dam construction, but *C. hirticollis* larvae will die after 4 to 8 days of immersion, and may simply dig out of their burrows prior to that, to be swept away by the flow (Knisley 2004, p. 19; Fenster and Knisley 2006, p. 20). Adults survive only a few days of immersion (Fenster and Knisley 2006, p. 20), although it is unclear to what extent an overwintering adult would be able to simply move to higher ground (Knisley 2004, p. 22).

Additional habitat loss has been caused by riprapping and channelization, particularly in the Sacramento River south of Colusa (Knisley 2003, p. 14; Knisley 2004, p. 25; Knisley and Fenster 2005, p. 456). The "Davis" occurrence, which likely was actually west of Davis along Putah Creek (Knisley 2004, p. 8), would not have been affected by the construction of Shasta or Oroville dams, but would have been subjected to similar losses of sandy shoreline habitat due to the construction of Monticello dam in 1957 (Knisley 2004, p. 28; USBR 2007, p. 1). Some suitable sandy river edge habitat may remain at the site of the "Sacramento" occurrence, assuming that site to be Discovery Park (Knisley 2004, p. 8), but that habitat is heavily impacted by human foot traffic and would therefore be largely unsuitable for Sacramento Valley tiger beetles.

Species Status Summary: Stream flow management through the construction of dams and streambank alteration through channelization and riprapping has posed a serious threat to the Sacramento Valley tiger beetle by causing habitat destruction, alteration, and inundation of historic and other suitable habitat for the subspecies. Extensive survey efforts of areas with known populations and other areas with suitable habitat have been unable to locate any extant populations of the Sacramento Valley tiger beetle. As a result of these survey efforts, the Sacramento Valley tiger beetle is believed to be extinct, and this likely occurred sometime in the late 1980s or early 1990s. Although no single factor (dam construction and operation, stream channelization, levee construction, riprapping, etc.) can be singled out as the cause for the subspecies' decline, the combination of all these factors has led to the extinction of this subspecies.

The petition presented information for one of the five listing factors (Factor A) in section 4 of the Act in an effort

to identify threats that may be leading to the decline of the Sacramento Valley tiger beetle. However, these factors are pertinent only in cases where the organism being proposed for listing: May be a listable entity as defined by section 3(16) of the Act; and is extant in the wild. Because the information in our files indicates that the Sacramento Valley tiger beetle is now extinct and, at the time the petition was presented to the Service, no longer extant in the wild, the five threat factors are not analyzed here.

Significant Portion of the Range Analysis

We have reviewed the information presented and supported in the petition and in our files to assess whether there may be any area within the range of the subspecies that would be considered a significant portion of its range. Because the information in our files indicates that the Sacramento Valley tiger beetle to be extinct, an analysis of what might constitute a significant portion of the subspecies' range is not applicable.

Finding

The petition focused entirely on threats posed by Factor A (habitat alterations), arguing that riprapping, channelization, and inopportune water releases from Oroville and Shasta dams altered the beetle's habitat in a manner that threatens or endangers the subspecies. All available evidence indicates that the subspecies is extinct, and most likely this occurred in the late 1980s or early 1990s, approximately a decade before the petition to list was submitted to the Service. The Act and our regulations define an "endangered species" to mean a species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6) and 50 CFR 424.02(e)). Similarly, a "threatened species" is defined as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20) and 50 CFR 424.02(m)). Because the Sacramento Valley tiger beetle is extinct, it therefore is not eligible for listing as an endangered or threatened species under the Act.

We have reviewed the petition and supporting information provided with the petition and evaluated that information in relation to other pertinent literature and information available to us at the time of the petition review. Because the subspecies is extinct, we also determined that a significant portion of the range analysis for the subspecies is not appropriate. Based on this review and evaluation, we

find that the petition and other available information does not present substantial information demonstrating that listing the Sacramento Valley tiger beetle under the Act as threatened or endangered in all or a significant portion of its range may be warranted at this time. We encourage interested parties to continue to gather and provide data on potential occurrence information for the Sacramento Valley tiger beetle.

References Cited

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

Author

The primary authors of this notice are staff of 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: October 17, 2008.

Kenneth Stansell,

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

[FR Doc. E8-25403 Filed 10-23-08; 8:45 am]

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