prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.

2. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

3. *E-mail: tiktinsky.toby@epa.gov.*

4. *Mail or deliver:* Toby Tiktinsky (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available on-line at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal or e-mail. The agency Web site and eRulemaking portal are ''anonymous access'' systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://docket.epa.gov/rmepub* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Toby Tiktinsky, EPA Region IX, (415) 947–4223, *tiktinsky.toby@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this **Federal Register**, we are approving the State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas.*

In addition, EPA is notifying the public that we have found that the carbon monoxide motor vehicle emissions budgets contained in the submitted maintenance plan are adequate for transportation conformity purposes. Related to the motor vehicle emissions budgets, however, we are denying a request by ARB for EPA to limit the duration of our approval of the budgets. Our denial of ARB's request, however, does not affect our approval of the plan itself or the budgets contained therein. Lastly, we are also correcting, pursuant to section 110(k)(6) of the Act, certain errors that we made in our 1998 final rule approving California's redesignation request for these ten planning areas.

We are taking these actions without prior proposal because we believe that the revision and request are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 15, 2005.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 05–23503 Filed 11–29–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 90-Day Finding on a Petition To Delist the *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch)

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 our 90-day finding on a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) as a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). We find that the petition presents substantial scientific or commercial information indicating that delisting *Astragalus magdalenae* var. *peirsonii* may be warranted. Therefore, we are initiating a status review of *Astragalus magdalenae* var. *peirsonii* to determine if delisting the species is warranted. To ensure that the review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: The finding announced in this document was made on November 30, 2005. To be considered in the 12-month finding for this petition, comments and information must be submitted to the Service by January 30, 2006.

ADDRESSES: Submit new information, materials, comments, or questions concerning this species to Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011; by facsimile to 760/431–9618; or by electronic mail to *''FW1PMV@fws.gov''.* Please submit electronic comments in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: 90-Day Finding on Peirson's Milk-Vetch Delisting Petition'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760–431–9440. Please note that the e-mail address *''FW1PMV@fws.gov''* will be closed out at the termination of the public comment period. See also the ''Public Information Solicited''' section for more information on submitting comments. The complete file for this finding is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Carlsbad Fish and Wildlife Office (see **ADDRESSES**), telephone 760–431–9440; facsimile 760–431–9618.

SUPPLEMENTARY INFORMATION:

Public Information Solicited

When we make a finding that substantial information is presented to indicate that a delisting action may be warranted, we are required to promptly commence a review of the status of the species. Based on results of the status review, we will make a 12-month finding as required by section 4(b)(3)(B) of the Act. To ensure that the status review is complete and based on the best available scientific and commercial data, we are soliciting information on

the Peirson's milk-vetch. We request any additional data, references, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of Peirson's milk-vetch. Of particular interest is information pertaining to the factors the Service uses to determine if a species is threatened or endangered: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other natural or human-caused factors affecting its continued existence. In addition, we request data and information regarding the items identified in the ''Summary of Threats Analysis'' section.

If you wish to comment, you may submit your comments and materials concerning this finding to the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. We will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 4(b)(3)(A) of the Act requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This finding is based on information contained in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the finding. 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 scientific or commercial 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 scientific or commercial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners and otherwise available in our files at the time of the petition review, and evaluated that information in accordance with 50 CFR 424.14(b). Our process of coming to a 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 scientific or commercial information'' threshold.

Our 90-day finding considers whether the petitioners have stated a reasonable case that delisting may be warranted. Thus, our finding expresses no view as to the ultimate issue of whether the species should be delisted. We reach a conclusion on that issue only after a thorough review of the taxon's status. In that review, which will take approximately 9 more months, we will perform a rigorous, critical analysis of the best available commercial and scientific information. We will ensure that the data used to make our determination as to the status of the species (*i.e.*, our 12-month finding) is consistent with the Act and the Information Quality Act (44 U.S.C. 3504(d)(1) and 3516). Upon completion, our 12-month finding will be published promptly in the **Federal Register**.

Astragalus magdalenae var. *peirsonii* (Peirson's milk-vetch) was listed as threatened on October 6, 1998 (63 FR 53596). At the time of listing, the primary threat to the milk-vetch was the destruction of individuals and dune habitat from off-highway vehicle (OHV) use and associated recreational development. On October 25, 2001, we received a petition to delist *Astragalus magdalenae* var. *peirsonii* dated October 24, 2001, from David P. Hubbard, Ted J. Griswold, and Philip J. Giacinti, Jr. of Procopio, Cory, Hargreaves & Savitch, LLP, that was prepared for the American Sand Association (ASA), the San Diego Off-Road Coalition, and the Off-Road Business Association (ASA 2001). On September 5, 2003, we announced an initial petition finding in the **Federal Register** that the petition presented substantial information to indicate the petitioned action may be warranted (68 FR 52784). In accordance with section 4(b)(3)(A) of the Act, we completed a status review of the best available scientific and commercial information on the species, and published our 12-month finding on June 4, 2004 (69 FR 31523). We determined that the petitioned action was not warranted at that time. This determination met deadline requirements established by a court-approved settlement agreement (*ASA et. al.* v. *USFWS and Gale Norton*, Stipulated Settlement Agreement, Civ. No. 03–315L LAB).

On July 8, 2005, we received a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) that was prepared for the American Sand Association, the Off-Road Business Association, the San Diego Off-Road Coalition, the California Off-Road Vehicle Association, and the American Motorcycle Association District 37 (ASA 2005). The new petition claims that according to four years of additional data collection, ''the Peirson's milk-vetch is even more abundant than was reported in ASA, *et al.*'s original petition, and that the plant's population and reproductive capacity are so stable and strong as to warrant delisting.''

This petition and its associated documents also include claims and information previously addressed in our 90-day and 12-month findings on the previous petition to delist Peirson's milk-vetch. Those claims that are not substantially different from those addressed in our previous findings or that are not supported by additional information will not be addressed in this 90-day finding. However, all available information, including information provided by the petitioners in supplements to the petition dated September 8, 2005 and October 4, 2005, will be considered in our status review and 12-month finding.

Species Information

Species Description

Astragalus magdalenae var. *peirsonii* is an erect to spreading, herbaceous, short-lived perennial in the Fabaceae (Pea family) (Barneby 1959, 1964). Plants may reach 8 to 27 inches (in) (20 to 70 centimeters (cm)) in height and develop taproots (Barneby 1964) that penetrate to the deeper, moister sand. According to Phillips and Kennedy (2003), plants largely die back to a root crown in the summer. The stems and leaves are covered with fine, silky

appressed hairs. The leaflets, which may fall off in response to drought, are small and widely spaced, giving the plants a brushy appearance. This taxon is unusual in that the terminal leaflet is continuous with the rachis rather than articulated with it. The purple flowers are arranged in 10- to 17-flowered axillary racemes.

Taxonomy

The taxonomic status of Peirson's milk-vetch was discussed in the final listing rule (63 FR 53596). Although Peirson's milk-vetch was originally described at the species rank, it is currently recognized as a variety as *Astragalus magdalenae* var. *peirsonii.* There are two other currently recognized varieties of this species, but these are restricted to Mexico.

Two other *Astragalus* taxa occur in the Algodones Dunes region. They are *Astragalus lentiginosus* var. *borreganus,* which is easily distinguished by its conspicuously broad leaflets, and *Astragalus insularis* var. *harwoodii,* which is easily distinguished by its smaller stature and shorter banner petals.

Range and Distribution

Astragalus magdalenae var. *peirsonii* is reported from northeastern Baja California, Mexico (Barneby 1959, 1964; WESTEC 1977; Spellenberg 1993), and has been verified in the Gran Desierto of Sonora, Mexico (Felger 2000). In the United States, this plant is restricted to about 53,000 acres (ac) (21,500 hectares (ha)) in a narrow band of the central portion of the Algodones Dunes of eastern Imperial County, California, which are among the largest sand dune fields in North America. The Algodones Dunes are often referred to as the Imperial Sand Dunes. Nearly all of the lands in the Algodones Dunes are managed by the Bureau of Land Management (BLM) as the Imperial Sand Dunes Recreation Area (ISDRA). However, the State of California and private parties own small inholdings in the dune area. Approximately 21,836 ac (8,837 ha) of the 185,000-ac (74,867-ha) ISDRA have been designated as critical habitat for *A. m.* var. *peirsonii* (69 FR 47330).

Life History

Astragalus magdalenae var. *peirsonii* has variously been considered an annual or perennial (Munz 1932, 1974; Barneby 1959, 1964; Spellenberg 1993; Willoughby 2001). Willoughby (2001) states that *A. m.* var. *peirsonii* is apparently a short-lived perennial, so its response to the amount of rainfall in the growing seasons is predictable. Documented persistence of individuals from one growing season to the next also attests to the perennial nature of *A. m.* var. *peirsonii* (Phillips and Kennedy 2002, 2003, 2004). Although Romspert and Burk (1979) found inflorescences present from December through at least April, plants are reportedly in flower from as early as mid-November through May (Barneby 1964; Porter *in litt.* 2003; Phillips and Kennedy 2002). The plants are self-incompatible, requiring cross-pollination. The primary pollinator is a digger bee (*Habropoda pallida*) (Porter 2005).

Based on current understanding of the species' life history, sufficient rain in conjunction with cooler-than-average fall weather appears to trigger germination events. Seedlings may be present in suitable habitat throughout the dunes, especially during above-normal precipitation years. In drier years, plant numbers decrease as individuals die and are not replaced by new seedlings. The long-term survival of the species likely depends on the production of viable seeds in the wetter years, the continual replenishment of the seed bank, and the persistence of the seed bank. The seed bank allows the species to persist until appropriate conditions for germination, growth, and reproduction occur. Large annual fluctuations in the numbers of plants present have been consistently found (Phillips and Kennedy 2005; Willoughby 2004, 2005).

The relative contribution of first year plants of Peirson's milk-vetch to the seed bank and survival of the taxon is not fully understood. Available data (Phillips and Kennedy 2002, 2004, 2005) and previous research (Romspert and Burk 1979) suggest that older age classes produce substantially more seeds than first-year plants and that, therefore, the older persisting plants (*i.e.*, those plants that survive for more than one growing season) may be individually important for depositing more seeds into the seed bank.

In desert plants, the majority of seedlings may die at the onset of the drier season as noted by previous reports. Phillips and Kennedy (2002) reported that 26 percent of the plants recorded in Spring 2001 counts survived to late 2001. These authors (Phillips and Kennedy 2003) also report the nearly complete loss of the 2003 seedling cohort of Peirson's milk-vetch. Pavlik and Barbour (1988) studied the establishment and survivorship pattern of *Astragalus lentiginosus* var. *micans,* another dune endemic plant, and recorded a complete failure of the 1984–1985 seedling cohort. These authors also reported that 54 percent of the 1985–1986 cohort of seedlings survived. However, none of these plants reached reproductive maturity that year.

Seed Biology

The fruits of Peirson's milk-vetch are 0.8 to 1.4 in (2 to 3.5 cm) long, one-chambered, hollow, and inflated. Peirson's milk-vetch fruits contain 11 to 16 large flattened black seeds. The seeds, among the largest seeds of any *Astragalus* in North America (Barneby 1964), average less than 0.1 ounces (oz) (15 milligrams (mg)) each in weight and are up to 0.2 in (4.7 millimeters (mm)) in length (Bowers 1996). Seeds are either dispersed locally when they fall from partly opened fruits on the parent plant, or more widely when they are released from fruits blown across the sand after falling from the parent plant. Seeds require no pre-germination treatment to induce germination, but show increased germination success when scarified (outer cover is broken). Porter (2005) reported about 9.1 percent of scarified seeds germinated while only 5.3 percent of unscarified seeds germinated. In germination trials conducted by Romspert and Burk (1979), 92 percent or more seeds germinated within 29 days at temperatures of 77 °F (25 °C) or less, and no seeds germinated at temperatures of 86 °F (30 °C) or higher. This indicates that seeds on the dunes may likely germinate in the cooler months of the year. Porter (*in litt.* 2002) identified that the primary dormancy mechanism in Peirson's milk-vetch is the impermeability of the seed coat to water and demonstrated little loss of viability in seeds stored for three years. This mechanism is consistent with characteristics of other species that have seed banks (Given 1994). Dispersed seeds that do not germinate during the subsequent growing season become part of the seed bank (Given 1994).

In a given year, an annual or short-lived species can fluctuate between large numbers of plants to few or even no plants. Many species, and Peirson's milk-vetch may be one of them, have periodic ''rescue'' episodes from the seed bank where large flushes appear when germination conditions are suitable (Elzinga *et al.* 1998). To the extent that plants are precluded from adding seeds to the seed bank because the plants are eliminated entirely or their reproductive output is reduced by summer drought, herbivory, and OHV impacts, these individuals cannot be expected to contribute to the seed bank and/or long-term survival of Peirson's milk-vetch. Development of a seed bank and associated dormancy allows plant species to grow, flower, and set seed in

years with most favorable conditions (Given 1994). When measuring seed bank dynamics to determine the viability and productivity of a seed bank, among the factors necessary to consider are estimation of the rate of seed mortality and aging, the amount of seed removed by predators, and the variability in germination events (Elzinga *et al.* 1998).

Threats Analysis

When considering an action for listing, delisting, or reclassifying a species, we are required to determine whether a species is endangered or threatened based on one or more of the five listing factors as described at 50 CFR 424.11. These factors are given as: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting the continued existence of the species. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. In making this finding, we evaluated whether or not the petition and associated documents and other information available to us present substantial information that delisting Peirson's milk-vetch may be warranted. Our evaluation, based on information provided in the petition and available in our files, is presented below.

The petitioners provided us with four reports completed since our 2004 12-month finding (69 FR 31523). These new reports include the work by BLM (Willoughby 2004, 2005) and reports by Phillips and Kennedy (2004, 2005).

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Demography of Peirson's Milk-Vetch

The petition restates claims made in the October 2001 petition that (1) the original listing was made without a plant count and (2) the original listing relied on field studies that BLM has since indicated were biased. As noted above in the Background section, we will not be addressing in this 90-day finding those claims that are not substantially different from those addressed in our previous findings or are not supported by additional information.

The petition states that its point is ''to demonstrate, through four years of additional data collection, that the Peirson's milk-vetch is even more abundant than was reported in ASA *et al.*'s original petition, and that the plant's population and reproductive capacity are so stable and strong as to warrant delisting'' (ASA 2005 p. 5). The petitioners suggest that (1) the addition of several years of monitoring data by BLM (Willoughby 2004, 2005) and Phillips and Kennedy (2004, 2005) indicate that Peirson's milk-vetch has a ''large and stable population'' (ASA 2005 p. 46) and (2) new data gathered by Phillips and Kennedy (2004, 2005) on Peirson's milk-vetch reproductive strategy indicate that the plant has the capacity to produce large numbers of seeds to restock the seed bank.

Using, in particular, the results of the monitoring by BLM (Willoughby 2004, 2005) and Phillips and Kennedy (2004, 2005), the petitioners state that the ''anticipated threats to the Peirson's milk-vetch and its habitat have not materialized'' (ASA 2005 p. 47). Instead, they state that threats to its ''continuous existence are negligible'' (ASA 2005 p. 48).

Off Highway Vehicle (OHV) Use

A primary threat that led to the listing of the Peirson's milk-vetch in 1998 was the destruction of individuals and habitat from OHV use and associated recreational development (63 FR 53596). The current petition (ASA 2005) and associated new documents provide information that bears on the impact of OHV activity on Peirson's milk-vetch. Monitoring studies conducted by BLM (Willoughby 2004, 2005) provide updated information on Peirson's milk-vetch abundance classes, use of a new monitoring protocol, estimates of density and population, and OHV impacts. Studies conducted by Phillips and Kennedy (2004, 2005) provide information on germination events and their timing, survivorship, seed bank, estimates of density and population size, OHV impacts, and additional surveys for Peirson's milk-vetch.

Evaluation of Information in the Petition and Other Information in Our Files

Willoughby (2004) summarizes multiple years of monitoring of Peirson's milk-vetch and *Helianthus niveus* ssp. *tephrodes* (Algodones Dunes Sunflower) in the Algodones Dunes. For each transect used in previous BLM surveys, Willoughby (2004) included number of plants tallied, sums of abundance class values, and number of cells occupied. Willoughby (2004) reports that there is essentially no difference in the number of cells per transect occupied by Peirson's milk-vetch in areas opened or closed to OHV use. Willoughby (2004) noted that part of the area surveyed and considered as ''open area'' was, in fact, closed to OHV use during 2001 and 2002. The report concludes that the populations of Peirson's milk-vetch fluctuate with rainfall but there was no difference between open and closed areas. Willoughby (2005) estimated that there were 286,374 Peirson's milk-vetch plants with plant density estimated to be 13.5 plants per ha (33.3 ac). Willoughby (2005) included estimates of numbers of the total plants that were flowering adults in 2004 and seedling survival for seedlings found in spring 2004 until September 2004.

Phillips and Kennedy (2004, 2005) provide information on survivorship, germination, seed bank, and population estimates of Peirson's milk-vetch based on counts at their study sites. They report actual plant counts of 77,922 individuals in March 2005 and 66,931 individuals in April 2005 at 25 sample sites. Within 56 ha (138 ac) of potential habitat, Phillips and Kennedy (2005) estimate an approximate minimum population of 173,328 plants in March 2005 and 142,243 plants in April 2005. They describe finding approximately 30 seedlings in Anza-Borrego Desert State Park (an area outside of Algodones Dunes).

To summarize, the petitioners have presented new information on the demography of Peirson's milk-vetch. Some of this information may be relevant to the potential impacts of OHV activities on the plant and its habitat. They support their arguments that Peirson's milk-vetch is healthy and stable and that OHV impacts are minimal with information from four reports (Willoughby 2004, 2005 and Phillips and Kennedy 2004, 2005) that were not available at the time of the previous 12-month finding (69 FR 31523). We find that these documents present substantial information that the petitioned action may be warranted and that they justify further detailed analysis in a 12-month finding. Additional information in our files includes a study on the biology of Peirson's milk-vetch (Porter 2005) and a Service study on plant densities in the Algodones Dunes (Service 2005b). All of these materials will be included in the species status review as part of the 12-month finding.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

This petition (ASA 2005) does not present any information regarding this factor as a threat to Peirson's milk-vetch nor did we identify any threats relative to Factor B in our previous 12-month finding (69 FR 31523). If new information becomes available in public comments, we will analyze it in our 12-month finding.

C. Disease or Predation

The petition (ASA 2005) states that Peirson's milk-vetch is largely free of threats from disease or predation. This is the same statement made in the original (ASA 2001) petition. We addressed the impact of seed-eating beetles (Bruchidae) on the seeds and evidence of rodent and insect herbivory in our previous 12-month finding (69 FR 31523). In 2004, BLM recorded numbers and distribution of plants with damage. Damage that was not from OHV impacts was attributed principally to insects (Willoughby 2005).

We identified potential additive Factor C threats in our previous 12-month finding (69 FR 31523), but the current petition does not identify threats in this category. Therefore, the petition does not present substantial information related to Factor C. However, our new 12-month finding will consider Factor C threats.

D. Inadequacy of Existing Regulatory Mechanisms

This petition (ASA 2005) and the previous petition (ASA 2001) both state that Peirson's milk-vetch has received adequate protection from BLM since 1977. The claim in the current petition that BLM has adequately protected Peirson's milk-vetch does not appear to constitute substantial information in and of itself because the petitioners' discussion of the issue was brief. However, the issue may be clarified by further analysis in a 12-month finding, which would also consider the Service's biological opinion, signed January 25, 2005, for the Imperial Sand Dunes Recreational Area Management Plan (Plan) (Service 2005a). We will analyze the Plan and the biological opinion as part of the 12-month finding.

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

This petition (ASA 2005) and the earlier petition (ASA 2001) both state that there are no other natural or manmade threats to Peirson's milk-vetch. We discussed threats from purposeful impacts to Peirson's milk-vetch by OHVs, rangewide natural threats during years when the numbers of individuals is very low, and the role of pollinators in our previous 12-month finding (69 FR 31523).

We identified Factor E threats in our previous 12-month finding (69 FR 31523), but the current petition does not identify threats in this category. Therefore, the petition does not present substantial information related to Factor E. However, the information presented by the petition may affect our analysis of the existence and relative magnitude of the identified Factor E threats and our new 12-month finding will consider these threats in light of the new information.

Summary of Threats Analysis

The petitioners have presented new information regarding the ecology and demography of Peirson's milk-vetch at the Algodones Dunes. Phillips and Kennedy (2004) include new information on seedling growth, documentation of a late winter germination in 2004, and a count of seedlings in 2004. Phillips and Kennedy (2005) provide new information on plant densities in three study areas, population estimates for those areas, results of a new survey area, and indicate that Peirson's milk-vetch ''colonies'' are increasing in three different areas open to OHV use. Willoughby (2004, 2005) includes new information regarding population trends of Peirson's milk-vetch plants in the Algodones Dunes, abundance class differences for 2002, number of occupied cells per transect, seedling survival, OHV impacts, and the use of a new monitoring protocol for special status plants, including Peirson's milk-vetch, in the Algodones Dunes. These reports constitute substantial information that the petitioned action may be warranted and thus justify further detailed analysis in a status review and 12-month finding.

Finding

We have reviewed the petition and associated documents and other information available in our files. Based on this review, and the reasons discussed above, we find that the petition and information in our files present substantial information that delisting of Peirson's milk-vetch may be warranted.

References Cited

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

Author

The primary author of this notice is the Carlsbad Fish and Wildlife Office.

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

Dated: November 17, 2005.

Richard E. Sayers, Jr.,

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

[FR Doc. 05–23407 Filed 11–29–05; 8:45 am]

BILLING CODE 4310–55–P