

telecommunications devices for deaf persons (TDDs), readers, taped texts, brailled materials, or large print materials and/or a magnifying device), please contact Tami Levitas.

Since Section 14 of the TREAD Act charged NHTSA with "Improving the safety of child restraints," this is the first of several **Federal Register** notices to be published that will advise of public meetings, request for comments, and/or advise of notice of proposed rulemaking on topics such as child seat labeling, child restraint ratings system, and booster seat study.

I've Submitted Comments Before Under Similar Topics, What About Those Comments?

Amendments to comments received under Request for Comments "Child Restraint System Safety Plan" published in the November 27, 2000, Docket Number NHTSA-7938, **Federal Register** are also welcomed.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket Number of this document (NHTSA-01-9785) in your comments. Submit all written comments to the Docket Management at the above address.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NCC-01, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR Part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590.

Will the Agency Consider Late Comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Can I Read the Comments Submitted by Other People?

You may read the comments by visiting Docket Management in person at Room PL-401, 400 Seventh Street, SW., Washington, DC from 9:00 a.m. to 5:00 p.m., Monday through Friday.

You may also see the comments on the Internet by taking the following steps:

a. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov>).

b. On that page, click on "search."

c. On the next page (<http://dms.dot.gov/search/>) type in the four-digit Docket Number shown at the beginning of this document (9785). Click on "search."

d. On the next page, which contains Docket summary information for the Docket you selected, click on the desired comments. You may also download the comments.

Authority: 49 U.S.C. 30111, 30117, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Marilena Amoni,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 01-14284 Filed 6-5-01; 8:45 am]

BILLING CODE 4910-59-P

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list *Botrychium lineare* (slender moonwort) as threatened under the Endangered Species Act of 1973, as amended (Act). After reviewing all available scientific and commercial information, we have determined that listing this species is warranted but precluded by other higher priority actions.

This decision is based on the number, variety, and significance of threats affecting the species. *Botrychium lineare* is currently known from a total of nine populations in Colorado, Montana, Oregon, and Washington. Various populations of this taxon are threatened by a variety of factors including: habitat destruction and fragmentation from road construction and maintenance, including herbicide spraying, recreational activities, grazing and trampling by wildlife and livestock, development, timber harvest, and competition from non-native plant species. Upon publication of this notice of 12-month petition finding, *Botrychium lineare* will be added to our candidate species list.

DATES: The finding announced in this document was made on March 9, 2001. Comments and information may be submitted until further notice.

ADDRESSES: You may submit data, information, comments, or questions concerning this finding to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709. You may inspect the petition finding, supporting data, and comments by appointment during normal business hours at the Snake River Basin Office.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor (see **ADDRESSES** section) (telephone 208/378-5243; facsimile 208/378-5262).

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, for any petition to revise the List of Threatened and Endangered Species containing substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned actions is—(i) not warranted, (ii) warranted, or (iii) warranted but precluded from immediate proposal by other higher priority efforts to revise the

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Plant *Botrychium lineare* (Slender Moonwort) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

List of Threatened and Endangered Species. Section 4(b)(3)(C) requires that petitions for which requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

On July 28, 1999, we received a petition dated July 26, 1999, from the Biodiversity Legal Foundation. The petitioner requested us to list *Botrychium lineare* as endangered or threatened and to designate critical habitat within a reasonable period of time following the listing. The petitioner submitted biological, distributional, historical, and other information and scientific references in support of the petition.

On May 10, 2000 (65 FR 30048), we published a 90-day petition finding concluding that the petition presented substantial information indicating that the requested action may be warranted. Accordingly, we initiated a status review pursuant to section 4(b)(3)(B) on the petitioned action.

We have reviewed the petition, and based on the best scientific and commercial information available, we believe that sufficient information is currently available to support a finding that listing *Botrychium lineare* as threatened is warranted, but that a proposed rule at this time is precluded by work on other higher priority listing actions.

Section 4(b) of the Act states that we may make warranted but precluded findings only if we find that (1) an immediate proposed rule is precluded by other pending actions, and (2) expeditious progress is being made on other listing actions. Due to the large amount of litigation we face, primarily over critical habitat, we are working on numerous listing actions mandated by court orders and settlement agreements. Complying with these orders and settlement agreements will consume nearly all or all of our listing budget for FY 2001. Any funding we may have available for discretionary listing actions will likely be allocated for emergency listings only. However, we can continue to place species on the candidate species list (Jamie Clark, Service, *in litt.* 2000).

Biology and Ecology

A member of the adder's-tongue family (Ophioglossaceae), *Botrychium lineare* is a small perennial fern with a pale green leaf (trochophore) from 6 to 18 centimeters (2 to 7 inches) long. Leaf segments are typically linear and

divided or forked at the ends. The sporophore (spore-bearing structure) is 1 to 2 times the length of the trochophore with a single main axis. Both the sporophore and the trochophore arise from an erect subterranean stem. Spores mature primarily in late June and July. Similar to other *Botrychium* species, the tiny, lightweight spores may be disseminated by wind, water, or possibly by animal vectors (Zika *et al.* 1995).

Surveys and field identification of moonworts are complicated by their biology. The plants are small, difficult to find, and are usually scarce. They cannot be positively identified in their immature states. Fronds may appear above ground during some growing seasons, or may not appear at all during unfavorable seasons (Vanderhorst 1997). *Botrychium lineare* was initially described in 1994 and is considered to be one of the more distinctive of the moonworts (Wagner and Wagner 1994). The nearest relative of *B. lineare* is thought to be *B. campestre*, a widespread species that is typically found at lower elevations (Wagner and Wagner 1994). Recent genetic studies have shown that although *B. lineare* is closely related to *B. campestre*, it is a distinct taxon (Farrar 2000). The *B. lineare* populations in Colorado, Oregon, Montana, and Washington are all genetically distinct from one another, which suggests a long period of isolation that is consistent with truly rare species (Donald Farrar, Iowa State University, *in litt.* 2000).

In the United States, *Botrychium lineare* is currently known from a total of nine populations: three in Colorado (El Paso and Lake counties), two in Oregon (Wallowa County), three in Montana (Glacier County), and one in Washington (Ferry County). In addition to the nine currently known *B. lineare* populations, there are four historic *B. lineare* population sites in the United States and two in Canada. Populations previously known from Idaho (Boundary County), Montana (Lake County), California (Fresno County), Colorado (Boulder County), and Canada (Quebec and New Brunswick), have not been seen for at least 20 years and may be extirpated (Wagner and Wagner 1994). The 90-day petition finding for this species (65 FR 30048) mentions a population previously known from Inyo County, California. However, we believe that the information regarding the location of this population (as published in Wagner and Wagner 1994) is incorrect, and that this site is probably in Fresno, not Inyo, County (Tim Thomas, Service, pers. comm. 1999).

The total number of individuals for all 9 occupied sites is about 190 (Edna Rey-Vizgirdas, Service, *in litt.* 2000). However, this number should be viewed as an estimate since *Botrychium* species do not always come up every year and exist below ground for most of their life cycle. Populations range in size from 2 to 100 individuals (E. Rey-Vizgirdas, *in litt.* 2000). Only 3 populations contain more than 15 individuals. Of the three largest populations, two are found in Montana (Glacier National Park and Blackfeet Indian Reservation) and one occurs in Colorado (Pikes-San Isabel National Forest). Of the remaining six *B. lineare* populations, four occur on Federal land, including the Pike-San Isabel National Forest (Colorado), Glacier National Park (Montana), Wallowa-Whitman National Forest (Oregon), and Colville National Forest (Washington). One population occurs on private land in Lostine Canyon, Oregon, which is a private inholding within the Wallowa-Whitman National Forest. The *B. lineare* site in Lake County, Colorado, is currently only known from a herbarium specimen consisting of two *B. lineare* plants collected in 1992 at approximately 3,243 meters (m) (10,640 feet (ft)) near Leadville, Colorado. This specimen was previously misidentified as *B. minganense* (Toby Spribille, Kootenai National Forest, *in litt.* 2000). No *B. lineare* plants were found at this site when it was surveyed in August 2000 (T. Spribille, *in litt.* 2000).

All *Botrychium* species are believed to be obligately dependent on mycorrhizal fungi (the symbiotic association of a fungus with the roots of a vascular plant) throughout their life cycle. A fungal associate is present within the plant at the earliest stages of development, and there are no reports of successful completion of the *Botrychium*'s life cycle without mycorrhizal fungi. Very little information exists regarding the specificity or habitat requirements of the mycorrhizal fungi that are associated with moonworts (Vanderhorst 1997). Similar to orchids, *Botrychium* species can remain dormant for 1 or more years, and cannot be identified with certainty in their immature stages. The ecology of moonworts and their vulnerability to management activities such as prescribed fire are not well understood (Zika *et al.* 1995; Vanderhorst 1997).

The habitat for *Botrychium lineare* has been described as "deep grass and forbs of meadows, under trees in woods, and on shelves on limestone cliffs, mainly at higher elevations" (Wagner and Wagner 1994), but they also state that to describe a typical habitat for this species would be problematic since the

known sites are so different. A specific habitat description for the species is difficult because of its current and historically disjunct distribution ranging from sea level in Quebec to nearly 3,000 m (9,840 ft) in Boulder County, Colorado. *Botrychium* spores are small and lightweight enough to be carried by air currents. This dispersal mechanism may explain the broad and often disjunct distribution patterns exhibited by moonworts (Vanderhorst 1997).

This species is found in a variety of montane forest or meadow habitats. Three of the known Montana *Botrychium lineare* populations occur on roadsides in early seral habitat (i.e., open habitat dominated by low-growing forbs (herbs) rather than shrubs or trees) (T. Spribille, *in litt.* 2000). Other *B. lineare* sites occur in grass-to forb-dominated openings in forests characterized by cone-bearing trees such as pine, spruce, and fir species (Paula Brooks, Wallowa-Whitman National Forest, *in litt.* 2000). At these occupied sites, *B. lineare* occurs with numerous associated species including *Fragaria virginiana* (strawberry), *Antennaria* spp. (pussy-toes), *Galium boreale* (northern bedstraw), *Potentilla* spp. (cinquefoil), *Symphoricarpos albus* (snowberry), *Vaccinium* spp. (huckleberry), *Calamagrostis* spp. (reedgrass), *Festuca* spp. (fescue), *Picea engelmannii* (Engelmann spruce), *Thuja plicata* (western red cedar), *Pseudotsuga menziesii* (Douglas-fir), *Pinus ponderosa* (ponderosa pine), *Pinus contorta* (lodgepole pine), and *Populus tremuloides* (aspen) (Steve Tapia, Pike-San Isabel National Forest, *in litt.* 2000; Kathleen Ahlenslager, Colville National Forest, *in litt.* 2000; E. Rey-Vizgirdas, pers. obs., 2000). Other *Botrychium* species, including *B. ascendens* (upward-lobed moonwort), *B. crenulatum* (wavy moonwort), *B. minganense* (Mingan Island moonwort), *B. lunaria* (common moonwort), and *B. montanum* (mountain moonwort), may also occur within or near habitat occupied by *B. lineare*. It is common for several *Botrychium* species to occur together in what has been called "genus communities" by researchers, a sympatric pattern of distribution which is unexplained (Vanderhorst 1997).

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section

4(a)(1). These factors and their application to *Botrychium lineare* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Botrychium lineare* is threatened by impacts associated with recreational activities. For example, since the Hurricane Creek *B. lineare* site (Wallowa-Whitman National Forest) is adjacent to a popular hiking and pack trail, it may be affected by recreational impacts such as trampling or campfires. This site has been used for camping since it is relatively flat and close to the trailhead, and campfire rings were observed in the area (P. Brooks, pers. comm. 2000). The Hurricane Creek *B. lineare* population may also be threatened by livestock trampling (i.e., by pack animals), erosion, and exotic weeds (Oregon Natural Heritage Program 1999). The Lostine Canyon site, which occurs on a private inholding within the Wallowa-Whitman National Forest, is potentially threatened by development, timber harvest, and recreational activities (P. Brooks, pers. comm. 2000).

Two *Botrychium lineare* sites, one in Glacier National Park and one on the Blackfeet Indian Reservation in Montana, are located on roadsides where they may be affected by road maintenance activities, herbicide spraying, mowing, or by vehicles that pull off the road to look at wildlife (T. Spribille, *in litt.* 2000; Tara Williams, Glacier National Park, *in litt.* 2000). Although such activities are ongoing and have likely affected these sites in the past, the degree of disturbance and the timing of these activities may affect the survival and reproduction of this species. For example, road maintenance activities that occur prior to spore maturation and dispersal could adversely affect the reproduction of *B. lineare*. Herbicide spraying recently conducted along the road where *B. lineare* occurs on the Blackfeet Indian Reservation killed much of the roadside vegetation (Mary Weatherwax, Blackfeet Environmental Office, pers. comm. 2000). This site is the largest known *B. lineare* population and contains 100 plants (T. Spribille, *in litt.* 2000). The effects of this spraying on *B. lineare* are currently unknown. Future surveys should provide more information on the status of this population. The residual effect of herbicide spraying on *B. lineare* is unknown. Some herbicides are known to be resident in the soil for long periods of time, affecting the plants that persist there (65 FR 7339).

The *Botrychium lineare* site in Lake County, Colorado (near Leadville) is

apparently located within a Superfund site (T. Spribille, *in litt.* 2000). This site is currently threatened by activities and associated disturbance related to the construction of a concrete conduit. An asphalt bike path through the upper portion of the site was completed in July 2000, and major construction and excavation to install the concrete conduit was observed in August 2000. Although other *Botrychium* species, including *B. lunaria* and *B. minganense*, were found at this site, no *B. lineare* plants were observed despite intensive surveys conducted in August 2000 (T. Spribille, *in litt.* 2000).

Of the two *Botrychium lineare* populations on the Pike-San Isabel National Forest (Colorado), the larger population (based on number of individuals) occurs in a meadow with a utility pole (power line) approximately 30 m (100 ft) from the Pikes Peak toll road. Maintenance of this power line could potentially threaten the *B. lineare* population, but such maintenance would have to be coordinated with Forest staff (S. Tapia, *in litt.* 2000). Although the toll road itself is heavily used, the *B. lineare* site is located along the lower half of the road and receives little recreational use (S. Tapia, pers. comm. 1999).

Habitat succession and fire suppression may threaten *Botrychium lineare*. However, the relationship of habitat succession and fire suppression to the persistence of *B. lineare* is unclear. For example, in a biological assessment for sensitive plants in the Lostine River canyon, a U.S. Forest Service (Forest Service) botanist notes that "*Botrychium* species seem to be found in areas that receive natural disturbances such as fire and landslides but we are not yet able to predict what disturbance interval or successional stage best suits them" (Hustafa 1999). Controlled (prescribed) fires or wildfires could also affect habitat for *B. lineare*, but the response of this species to fire is not currently known. In some cases, wildfires or controlled fires create high ground temperatures which may sterilize the soil and eliminate fungal species that are necessary for the survival of moonworts (Zika 1992). We are not aware of any plans to implement controlled burning programs in *B. lineare* habitat at this time.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The plant is not a source for human food, nor is it currently of commercial horticulture interest. Therefore, overutilization is not considered to be a threat to this species at the present time.

C. Disease or predation. While disease is not currently known to be a threat to *Botrychium lineare*, populations may be affected by grazing by livestock or wildlife. The specific effects of grazing on the species are unknown, although if grazing by livestock or wildlife species occurs prior to the maturation and release of spores, the capacity for sexual reproduction of affected plants may be compromised. For example, the proximity of both *B. lineare* populations in Oregon to trails and developed recreation sites could result in grazing by horses or other domestic animals. One *B. lineare* site (on the Colville National Forest) occurs within a grazing allotment but is fenced to exclude livestock (K. Ahlenslager, *in litt.* 2000). Although open range grazing is common on the Blackfoot Indian Reservation, the *B. lineare* population on the Reservation appeared to be ungrazed when it was discovered in July 2000 by a Forest Service botanist (T. Spribille, *in litt.* 2000). *Botrychium lineare* has not been observed in areas with obvious disturbance by livestock (K. Ahlenslager, *in litt.* 2000; T. Spribille, *in litt.* 2000).

D. The inadequacy of existing regulatory mechanisms. *Botrychium lineare* is considered a sensitive species in Regions 2, 5, and 6 of the Forest Service, which include extant and historical *B. lineare* sites found in Colorado, Oregon, Washington, and California (Forest Service 1999, 2000; Joanna Clines, Sierra National Forest, *in litt.* 2000). The Forest Service has regulations that address the need to protect these sensitive species, as well as candidate, and federally listed species (e.g., the National Forest Management Act). Forest Service Regions 1 and 4, which include extant and historical sites found in Montana and Idaho, do not have *B. lineare* on their regional sensitive species lists (Teresa Prendusi, Forest Service, *in litt.* 2000; Steve Shelly, Forest Service, *in litt.* 2000); the species in these regions, therefore, is not given any special consideration. However, the Forest Service does prohibit the collection of any native plants without a permit on Forest Service lands. *Botrychium lineare* is not on Canada's list of threatened or vulnerable species, so there is no special protection for this species in Canada (Canadian Wildlife Service 2000).

Monitoring of some (but not all) *Botrychium lineare* populations on Federal lands has been initiated. Monitoring helps to identify threats and management actions that may be necessary to control habitat degradation and protect the species. Only one site, which occurs on the Colville National

Forest, has been fenced to protect the species from livestock grazing. However, some of the *B. lineare* sites on Federal lands are threatened by exotic weeds, herbicide spraying, trampling, and road construction and maintenance (see Factors A and E for additional information).

The National Park Service (Park Service) has policies to promote the conservation of federally listed or candidate species and other rare or sensitive species within park boundaries (T. Williams, *in litt.* 2000). However, as discussed previously, the two *Botrychium lineare* sites in Glacier National Park are located on roadsides where they may be subject to road maintenance activities or potential damage from vehicles. Therefore, long-term protection of these sites may be difficult due to their location (i.e., adjacent to roads, which are potentially a source of recurring disturbance).

Although *Botrychium lineare* is considered to be rare and imperiled by the State natural heritage programs in Colorado, Montana, Oregon, and Washington, the State heritage program rankings are not legal designations and do not confer State regulatory protection to this species.

E. Other natural or manmade factors affecting its continued existence. Non-native plant species may threaten habitat occupied by *Botrychium lineare*. Exotic species have been observed in the vicinity of *B. lineare* populations in Colorado (S. Tapia, *in litt.* 2000), Montana (T. Spribille, *in litt.* 2000), Oregon (Oregon Natural Heritage Program 1999), and Washington (K. Ahlenslager, *in litt.* 2000). Non-native plant species can compete with native plant species for resources such as space, nutrients, and water, and can replace them. As a result, the effects of non-native species may be especially serious for native taxa that have extremely small population sizes, such as *B. lineare*.

The amount of habitat occupied by *Botrychium lineare* is extremely small. Total habitat size for all extant sites, except for the Leadville and one Pikes Peak, Colorado, site, is approximately 1.15 hectares (ha) (2.85 acres (ac)), and nearly all of the sites are smaller than 465 square meters (5000 square feet). The *B. lineare* plants at the smaller Pikes Peak site have not been located in the last few years, and only two plants were previously known, so the actual amount of occupied habitat is likely to be extremely small. No *B. lineare* plants were found at the Leadville site in 2000, so it is not possible to estimate the amount of occupied habitat. Of the two *B. lineare* sites in Oregon, the Lostine

Canyon site occupies an area of approximately 10 × 10 m (30 × 30 ft) (Wagner and Wagner 1994), and the Hurricane Creek site is found in an area up to 1 ha (2.5 ac) in size (Oregon Natural Heritage Program 1999). The site in Washington (on the Colville National Forest) occupies an area of approximately 15 × 30 m (50 × 100 ft) (K. Ahlenslager, *in litt.* 2000). The larger of the two *B. lineare* populations on the Pike-San Isabel National Forest occupies an area of approximately 35 × 10 m (115 × 30 ft) (Carpenter 1996a, 1996b; Colorado Natural Heritage Program 1999). *Botrychium lineare* populations range in size from 2 to 100 plants, with only 3 populations supporting more than 15 individuals.

The small size of existing *Botrychium lineare* populations makes this species vulnerable to extirpation due to random naturally occurring events. A single random event could extirpate a substantial portion or all of the individuals at a given site. Also, changes in gene frequencies within small, isolated populations can lead to a loss of genetic variability and a reduced likelihood of long-term viability (Franklin 1980; Soulé 1980; Lande and Barrowclough 1987).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species. Only nine populations of *Botrychium lineare* are known to exist, and the small amount of occupied habitat and few individuals, combined with ongoing threats, make this species vulnerable to extinction. All of the remaining sites that support *B. lineare* are small and fragmented, and the various sites are vulnerable to impacts from factors including herbicide use, recreational activities, competition from non-native vegetation, road construction and maintenance, development, timber harvest, and incidental loss from trampling or grazing by wildlife or livestock. Also, all of these populations are particularly susceptible to extinction from random events because of their extremely small size. Existing regulatory mechanisms are inadequate to protect this taxon.

We conclude that the overall magnitude of threats to *Botrychium lineare* throughout its range is moderate and the overall immediacy of these threats is non-imminent. *Botrychium lineare* is considered a species without subspecies classification. Pursuant to our Listing Priority Guidance (48 FR 43098), a species for which threats are moderate and non-imminent is assigned a Listing Priority Number of 11. While we conclude that listing of *Botrychium*

lineare is warranted, an immediate proposal to list is precluded by other higher priority listing actions. During fiscal year 2001, we must spend nearly all of our Listing Program funding to comply with court orders and judicially approved settlement agreements, which are now our highest priority actions. *Botrychium lineare* will be added to the list of candidate species upon publication of this notice of 12-month finding. We will continue to monitor the status of the slender moonwort and other candidate species. Should an emergency situation develop with one or more of these species, we will act to provide immediate protection, if warranted.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Snake River Basin Office (see **ADDRESSES** section).

Author(s)

The primary authors of this document are Edna Rey-Vizgirdas, U.S. Fish and Wildlife Service, Snake River Basin Office (see **ADDRESSES** section), and Barbara Behan, U.S. Fish and Wildlife Service, Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232.

Authority

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

Dated: March 9, 2001.

Marshall P. Jones, Jr.,

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

[FR Doc. 01-14170 Filed 6-5-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG99

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the O'ahu 'Elepaio

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U. S. Fish and Wildlife Service (Service), propose designation of critical habitat for the O'ahu 'elepaio, a bird, pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed critical habitat consists of five units whose boundaries encompass a total area of approximately 26,853 hectares (ha)

(66,354 acres (ac)) on the island of O'ahu, Hawai'i.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. The primary constituent elements for the O'ahu 'elepaio are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering. All areas proposed as critical habitat for the O'ahu 'elepaio contain one or more of the primary constituent elements.

We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts. We may revise this proposal to incorporate or address new information received during the comment period.

DATES:

Comments

We will consider comments from all interested parties received by August 6, 2001.

Public Hearings

Requests for public hearing must be received by July 23, 2001.

ADDRESSES:

Comments

Send written comments on this proposed rule to Paul Henson, Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, Hawai'i 96850.

Availability of Documents

Supporting documentation and references used in the preparation of this proposed rule and all comments and materials received will be available for public inspection, by appointment, during normal business hours in the Pacific Islands Fish and Wildlife Office in Honolulu at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, or Eric VanderWerf, Biologist, U.S. Fish and Wildlife Service at the above address (telephone: 808/541-3441; facsimile: 808/541-3470).

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian archipelago consists of eight main islands and the numerous shoals and atolls of the northwestern Hawaiian Islands. The islands were formed sequentially by basaltic lava that emerged from a hot spot in the earth's

crust located near the current southeastern coast of the island of Hawai'i (Stearns 1985). O'ahu, the third oldest main island, is 2.5 million to 3.5 million years old and is heavily weathered. O'ahu has two principal mountain ranges, the Ko'olau and the Wai'anae Mountains, separated by a gently sloping plateau. The Ko'olau Mountains extend 60 kilometers (km) (37 miles (mi)) from northwest to southeast along the eastern half of the island. The windward (northeastern) slope of these mountains is characterized by steep cliffs and short ridges less than 6 km (4 mi) long. The leeward (southwestern) slope is characterized by parallel ridges as long as 18 km (11 mi), alternating with steep-sided stream valleys. The peak elevation in the Ko'olau Mountains occurs at Pu'u Kōnāhua-nui (955 meters (m); 3,105 feet (ft)). The drier Wai'anae Mountains run from northwest to southeast in a 32-km (20-mi) arc along the western half of O'ahu, in the rainshadow of the Ko'olau Range. Both the windward and leeward slopes of the Wai'anae Mountains are characterized by steep cliffs and ridges less than 5 km (3 mi) in length. The peak elevation occurs at Mt. Ka'ala (1,230 m; 4,025 ft). Approximately 36 percent (134,300 acres) of O'ahu is forested (Buck *et al.* 1988). Of these forested lands, approximately 49 percent is primarily native forest dominated by koa (*Acacia koa*) and 'ōhi'ā (*Metrosideros polymorpha*), with the remainder, 51 percent, dominated by introduced species, e.g., common guava (*Psidium guajava*), strawberry guava (*P. cattleianum*), christmasberry (*Schinus terebinthifolius*), mango (*Mangifera indica*), and several species of eucalypts (Buck *et al.* 1988).

The O'ahu 'elepaio (*Chasiempis sandwichensis ibidis*) is a small forest-dwelling bird (12.5 grams (0.43 ounces)) average weight; 15 centimeters (6 inches) total body length), and is a member of the monarch flycatcher family Monarchidae (VanderWerf 1998). It is dark brown above and white below, with light brown streaks on the breast. The tail is long (6.5 cm, 2.6 in.) and often held up at an angle. Adults have conspicuous white wing bars, a white rump, and white tips on the tail feathers. The throat is white with black markings in both sexes, but males tend to have more black than females, especially on the chin. Juveniles and subadults are rufous above and on the breast, with a white belly and rusty wing-bars. The bill is medium-length, straight, and black, with the base of the lower mandible bluish-gray in adults