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Dated: October 17, 2007.

**Jeffrey Shuren**,

*Assistant Commissioner for Policy.*

[FR Doc. 07–5216 Filed 10–19–07; 10:35 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 261

**RIN 0596–AC38**

#### **Amend Certain Paragraphs in 36 CFR 261.2 and 261.10 To Clarify Issuing a Criminal Citation for Unauthorized Occupancy and Use of National Forest System Lands and Facilities by Mineral Operators**

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Forest Service is reopening the comment period for an additional 30 days and invites written comments on this proposed rule. The proposed rule was published in the **Federal Register** on May 10, 2007 (72 FR 26578), and should be referenced when preparing responses. This proposed rule would allow, if necessary, a criminal citation to be issued for unauthorized mineral operations on National Forest System lands. **DATES:** Comments on this proposed rule must be received in writing by November 23, 2007.

**ADDRESSES:** Send written comments to Forest Service, USDA, Attn: Director, Minerals and Geology Management (MGM) Staff, (2810), at Mail Stop 1126, Washington, DC 20250–1126; by electronic mail to [36cfr228a@fs.fed.us](mailto:36cfr228a@fs.fed.us); or by fax to (703) 605–1575; or by the electronic process available at the Federal e-Rulemaking portal at <http://www.regulations.gov>. If comments are sent by electronic mail or by fax, the

public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the proposed rule; explain the reasons for any recommended changes; and, where possible, reference the specific wording being addressed. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on this proposed rule in the Office of the Director, MGM Staff, 5th Floor, Rosslyn Plaza Central, 1601 North Kent Street, Arlington, Virginia 22209, Monday through Friday (except for Federal holidays) between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead at (703) 605–4545 to facilitate entry into the building.

#### **FOR FURTHER INFORMATION CONTACT:**

Janine Clayton, Minerals and Geology Management Staff, (703) 605–4788, or electronic mail to [jclayton01@fs.fed.us](mailto:jclayton01@fs.fed.us).

Dated: October 16, 2007.

**Gloria Manning**,

*Associate Deputy Chief, NFS.*

[FR Doc. E7–20758 Filed 10–22–07; 8:45 am]

**BILLING CODE 3410–11–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 List the Summer-Run Kokanee Population in Issaquah Creek, WA, as Threatened or 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 summer-run Issaquah Creek kokanee (*Oncorhynchus nerka*) 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 the summer-run Issaquah Creek kokanee may represent a distinct population segment, and therefore a listable entity, under section 3(16) of the Act. Therefore, we will not be initiating a further status review in response to this petition.

**DATES:** This finding announced in this document was made on October 23, 2007. You may submit new information concerning this species for our consideration at any time.

**ADDRESSES:** The complete supporting file for this finding is available for public inspection, by appointment, during normal business hours at the Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503. Please submit any new information, materials, comments, or questions concerning the summer-run Issaquah Creek kokanee or this finding to the above address (Attention: Issaquah Creek kokanee), or via electronic mail (e-mail) at [FW1WVO\\_ICkok@fws.gov](mailto:FW1WVO_ICkok@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Ken Berg, Manager, Western Washington Fish and Wildlife Office (see

**ADDRESSES**) by telephone at (360-753-4327), or by facsimile to (360-753-9405). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

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

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

We base this finding on information provided by the petitioner that we determined to be reliable after reviewing sources referenced in the petition and information available in our files at the time of the petition review. We evaluated that information in

accordance with 50 CFR 424.14(b). Our process for making this 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the "substantial information" threshold.

**Petition History**

On February 22, 1999, we responded to a November 2, 1998, letter from Mr. Ron Sims, Kings County Executive, regarding the status of kokanee in Lake Sammamish. Our response letter questioned whether Mr. Sims' letter was in fact a petition. On March 16, 2000, we received a petition, dated March 15, 2000, from Save Lake Sammamish, Washington Trout, Sierra Club Cascade Chapter, Washington Environmental Council, Friends of the Earth, King County Conservation Voters, and Defenders of Wildlife. The petitioners requested that we emergency list the population of native summer-run (or early-run) kokanee that spawn in Issaquah Creek, a tributary of Lake Sammamish in King County, Washington, as an endangered distinct population segment (DPS) and designate critical habitat under the Act. The petition clearly identified itself as such and provided the names and addresses of the petitioners. We responded in two letters dated April 17, 2000, and November 6, 2000, stating that addressing the petition at that time was not practicable due to our workload addressing court orders and court-approved settlement agreements for other listing actions and that we would address the petition as funding became available. This petition finding fulfills that commitment.

On July 10, 2007, we received a petition to list Lake Sammamish kokanee as threatened or endangered under the Act. We are in the process of analyzing that petition and intend to publish a 90-day finding on that petition in the near future.

**Species Information**

The kokanee and the sockeye salmon are two forms of the same species, *Oncorhynchus nerka* (Order Salmoniformes, Family Salmonidae), that are native to watersheds in the north Pacific from southern Kamchatka to Japan in the western Pacific and from Alaska to the Columbia River in North America (Page and Burr 1991, p. 52; Taylor *et al.* 1996, pp. 402-403). Adult kokanee look like sockeye salmon, but are generally smaller in size at maturity because they are confined to freshwater environments, which are less productive than the ocean (Gustafson *et al.* 1997, p. 29). Both sockeye and

kokanee turn from silver to bright red during maturation, while the head is olive green and the fins are blackish red (Craig and Foote 2001, p. 381).

Sockeye salmon are anadromous, migrating to the Pacific Ocean following hatching and rearing in freshwater to spend 2 to 3 years in marine waters before returning to freshwater environments to spawn. Kokanee are non-anadromous, spending their entire lives in freshwater habitats (Meehan and Bjorn 1991, pp. 56-57). Kokanee young are spawned in freshwater streams and subsequently migrate to a nursery lake (Burgner 1991, pp. 35-37). Kokanee remain in the lake until maturity and return to natal freshwater streams to spawn and die.

Taylor *et al.* (1996, pp. 411-414) found multiple episodes of independent divergence between sockeye and kokanee throughout their current range. As ancestral sockeye populations expanded to new river systems, those that could not access the marine environment on a regular basis evolved into the non-anadromous kokanee form. This rapid adaptive evolution happened multiple times such that kokanee populations are genetically more similar to their sympatric (occupying the same geographic area without interbreeding) sockeye populations than kokanee in other river systems (Taylor *et al.* 1996, pp. 401, 413-414).

Kokanee in the Lake Washington and Lake Sammamish watersheds are separated into three groups: (1) Summer-run, (2) middle-run, and (3) late-run kokanee, based on spawn timing and location (Berge and Higgins 2003, p. 3; Young *et al.* 2004, p. 66). Summer-run kokanee spawn during late summer (August through September) in Issaquah Creek and are the only run of kokanee known to spawn in that creek (sockeye salmon spawn there in October). Middle-run kokanee spawn in late September through November, primarily in larger Sammamish River tributaries. Late-run kokanee spawn from late fall into winter (October through January) in tributaries of Lake Sammamish. The petition and this petition finding address only the summer-run kokanee in Issaquah Creek.

Berggren (1974, p. 9) and Pfeifer (1995, pp. 8-9 and 21-22) report escapements (the number of fish arriving at a natal stream or river to spawn) of summer-run Issaquah Creek kokanee numbering in the thousands during the 1970s. Since 1980, the escapement of summer-run Issaquah Creek kokanee has plummeted (Berge and Higgins 2003, p. 18). Between 1998 and 2001, only three summer-run kokanee redds (gravel nests of fish eggs)

were observed in Issaquah Creek. In July 2001 and 2002, the Washington Department of Fish and Wildlife installed a fish weir across Issaquah Creek in an attempt to capture all migrating kokanee and spawn them in a hatchery for a supplementation program. However, no kokanee were observed or captured in these attempts (WDFW 2002, pp. 5–7).

#### *Distinct Vertebrate Population Segments*

The petitioners state that the summer-run Issaquah Creek kokanee is a DPS based on their August spawning period, fry emergence timing, coloration at the time of spawning, and genetic distinctness, and asked the Service to emergency list the DPS as endangered. Under the Act, we can consider for listing any species, subspecies, or DPS of any species of vertebrate fish or wildlife that interbreeds when mature, if information is substantial to indicate that such action may be warranted. To implement the measures prescribed by the Act and its Congressional guidance (see Senate Report 151, 96th Congress, 1st Session), we developed a joint policy with the National Oceanic and Atmospheric Administration entitled “Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Act” (61 FR 4725; February 7, 1996). According to this policy, the three elements considered regarding the potential recognition of a DPS as endangered or threatened are: (1) Discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) significance of the population segment in relation to the remainder of the taxon; and (3) conservation status of the population segment in relation to the Act’s standards for listing (i.e., when treated as if it were a species, is the population segment endangered or threatened?). Criteria for all three elements must be satisfied to meet the definition of a DPS. The petition discusses all three factors, but does not explicitly state whether they are evaluating these factors based on the standards set forth in the DPS policy. Following is our evaluation of these elements in relation to the petitioned entity, the summer-run Issaquah Creek kokanee.

#### *Discreteness*

Discreteness refers to the separation of a population segment from other members of the taxon based on either: (1) Physical, physiological, ecological, or behavioral factors; or (2) international boundaries that result in significant differences in control of exploitation,

habitat management, conservation status, or regulatory mechanisms.

Data contained in the petition, and otherwise available to the Service suggests that there is substantial information regarding the behavioral discreteness of summer-run Issaquah Creek kokanee. Timing of spawning and fry emergence for this population is earlier than any other kokanee or sockeye population in the Sammamish Basin (Berggren 1974, pp. 9 and 38; Pfeifer 1992, pp. 117 and 141; Young *et al.* 2004, p. 65). This difference in spawn timing may result in the reproductive isolation of summer-run kokanee. Based on the physical and behavioral factors referenced in the petition, we find that there is substantial information indicating that summer-run Issaquah Creek kokanee may meet the discreteness element of our DPS policy.

#### *Significance*

If a population segment is considered discrete under one or more of the conditions listed in the Service’s DPS policy, its biological and ecological significance will then be considered. In carrying out this evaluation, the Service considers available scientific evidence of the potential DPS’s importance to the taxon to which it belongs. This consideration may include, but is not limited to: (1) Persistence of the discrete population segment in a unique or unusual ecological setting; (2) evidence that loss of the discrete segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of the taxon that may be more abundant elsewhere as an introduced population outside of its historic range; or (4) evidence that the discrete segment differs markedly from other populations in its genetic characteristics (61 FR 4721).

The petition states that the summer-run Issaquah Creek kokanee population is significant because it is native to the Sammamish Basin and probably unique among kokanee and sockeye populations in the western United States. The petition points to several studies suggesting this population is genetically distinguishable from a number of other kokanee and sockeye populations. Our analysis of these statements relative to the DPS policy follows.

#### *1. Persistence of the population segment in an ecological setting that is unique for the taxon.*

Neither the petition nor information in our files indicates that Issaquah Creek

may be a unique or unusual ecological setting for kokanee.

#### *2. Evidence that loss of the population segment would result in a significant gap in the range of taxon.*

Neither the petition nor information in our files indicates that loss of summer-run Issaquah Creek kokanee may result in a significant gap in the range of the taxon. According to the petition, Issaquah Creek is one of several tributaries to Lake Sammamish that are occupied by kokanee. There are also kokanee populations in tributaries to the Sammamish River (below Lake Sammamish). Furthermore, the taxon occurs throughout the North Pacific, from southern Kamchatka to Japan in the western Pacific and from Alaska south to the Columbia River system in the eastern Pacific (Page and Burr 1991, p. 52; Taylor *et al.* 1996, pp. 402–403).

#### *3. Evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range.*

Neither the petition nor information in our files indicates that summer-run Issaquah Creek kokanee may represent the only surviving natural occurrence of this species. The petitioners note that there are at least 78 different kokanee populations from British Columbia, Colorado, Idaho, Montana, Oregon, Utah, and Washington.

#### *4. Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.*

The petition cites several studies indicating that Issaquah Creek kokanee may be genetically differentiated from other kokanee and sockeye populations (Seeb and Wishard 1977, Wishard 1980, Hendry 1995, Hendry *et al.* 1996). These citations appear to be credible scientific publications and we accept the characterization of these publications provided in the petition for the purpose of this 90-day finding. However, we note that the definition of the term “significant,” as applied in these genetics studies is not the same as its usage when determining whether or not a population meets the significance criterion under the DPS policy. These studies found that there were “significant” differences in allele frequencies (the frequency of one member of a pair or series of genes occupying a specific position on a specific chromosome) between summer-run Issaquah Creek kokanee and the 11 other populations that they studied. However, these “significant” differences in allele frequencies must be placed into

the appropriate spatial context of the species' distribution.

The studies cited by the petitioners looked at four kokanee populations, inclusive of Issaquah Creek kokanee, and eight sockeye populations, all from the Lake Washington and Lake Sammamish Basins or hatchery strains. Taylor *et al.* (1996, pp. 409–410) looked at 750 *Oncorhynchus nerka* from 24 different populations throughout the range of the species and identified two major genetic groupings, the “northwestern group” (Kamchatka, Alaska, and northwest British Columbia) and the “southern group” (Fraser River and Columbia River systems). Given the large range of the species and the broader genetic relationships described by Taylor *et al.* (1996, pp. 409–410), the studies referenced by the petitioners looked only at a relatively small subset (both geographically and in total number) of *O. nerka*, and do not indicate that Issaquah Creek kokanee may have marked genetic differences that may make them significant to the taxon.

Information in our files also fails to indicate that Issaquah Creek kokanee may be markedly genetically divergent or that they may be evolutionarily significant to the taxon. Although Coyle *et al.* (2001, p. 17) conclude that summer-run Issaquah Creek kokanee have significant genetic differences compared with other conspecific populations of kokanee and sockeye salmon and are a valid DPS, their analysis does not support these findings. The authors acknowledge that genetic differences between early-run Issaquah Creek kokanee and late-run Lake Sammamish kokanee are unknown (but see our discussion of more recent genetic work by Young *et al.* 2004, below), and the adaptive significance of early-run spawning and early fry emergence are unknown. Further, the authors acknowledged that while this population possesses size and coloration not typical of other kokanee populations in the Sammamish Basin, these are unlikely to be defining characteristics of the population. Although the authors point to the population's adaptation to warmer temperatures and lower stream flows (when compared to other kokanee populations in the Sammamish Basin) as evidence of a distinct adaptation to its environment, they also state that Kootenai Lake kokanee in British Columbia have early-run timing similar to that of summer-run Issaquah Creek kokanee.

Coyle *et al.* (2001, p. 19) cite a study by Bentzen and Spies (2000, p. 6) as evidence that early-run Issaquah Creek

kokanee are significantly different genetically to other conspecific populations of kokanee and sockeye salmon. However, Bentzen and Spies (2000, p. 1–9) only studied kokanee populations from Issaquah Creek and Lake Whatcom, did not include other tributaries of Lake Sammamish in their study, and only examined three populations of sockeye salmon. Therefore, Bentzen and Spies' (2000, p. 6) conclusion that Issaquah Creek kokanee are significantly different from other conspecific populations of kokanee is applicable only to the small number of conspecific populations they examined, and only in the context that there were statistically significant differences at microsatellite loci (regions within genes where short sequences of DNA are repeated). An important distinction must be made between a statistically significant difference in allele frequencies using highly variable loci (e.g., microsatellites) and a biologically meaningful difference in genetic markers (Hedrick 1999, p. 316–317). This distinction is important because patterns of adaptive loci may not be correlated with highly variable loci, such as microsatellite loci. It is this high variability in microsatellite loci that enables the detection of very small genetic differences with statistical significance (Hedrick 1999, p. 316–317). While Bentzen and Spies (2000, p. 6) report statistically significant differences in allele frequencies between the two populations of kokanee and three populations of sockeye they studied, they provide no argument for how these differences may be biologically important or how they may constitute marked genetic differences that are significant to the taxon.

The most recent genetic work on kokanee in the Sammamish Basin shows that allele frequencies in Issaquah Creek and Lake Sammamish tributaries differ from those of other introduced strains within the basin and also showed greater genetic distance between middle-run and late-run kokanee than the genetic distance between either group and summer-run Issaquah Creek kokanee (Young *et al.* 2004, pp. 69–70). However, the authors note that the study had a small sample size for summer-run Issaquah Creek kokanee (n=13 individuals) and that inferences regarding the summer-run Issaquah Creek kokanee should be treated with caution. While this study provides some evidence that summer-run Issaquah Creek kokanee may be genetically differentiated from other kokanee in the Lake Washington and Lake Sammamish basins, it did not address whether the

summer-run Issaquah Creek kokanee may be markedly genetically divergent from kokanee outside of the Lake Washington and Lake Sammamish basins or how such genetic divergence might be important to the taxon as a whole.

The petition, in combination with information in our files, does not indicate how either the genetic makeup, early spawning, or color variation of summer-run Issaquah Creek kokanee may be significant to the taxon. Therefore, we conclude that the petition does not present substantial information indicating summer-run Issaquah Creek kokanee may meet the significance criterion of our DPS policy. Furthermore, neither the petition nor information in our files presents substantial information that summer-run Issaquah Creek kokanee may represent a significant portion of the species' range. Consequently we conclude that the petition does not present substantial information indicating that summer-run Issaquah Creek kokanee may be a listable entity under the Act.

The petition presented information for the five listing factors in section 4 of the Act in an effort to identify threats that may be leading to the decline of the summer-run Issaquah Creek kokanee. These factors are pertinent only in cases where the organism being proposed for listing may be a listable entity as defined by section 3(15) of the Act. Because the petition does not present substantial information indicating that summer-run Issaquah Creek kokanee may meet the significance criterion for a DPS or may represent a significant portion of the species' range, the five threat factors are not analyzed here.

### Finding

The Service has reviewed the petition to list the summer-run Issaquah Creek kokanee, the literature cited in the petition that was available to us, and other available scientific literature and information in our files. Based on this review, we find the petition does not present substantial information indicating that the summer-run Issaquah Creek kokanee may meet the criteria for being classified as a DPS under the Act. Although statistically significant differences in allele frequencies have been reported between summer-run Issaquah Creek kokanee and other kokanee and sockeye populations in the Sammamish Basin, information provided in the petition and other available information do not indicate how these differences may be biologically important or how they may constitute marked genetic differences

that are significant to the taxon. Therefore, we will not commence a status review in response to this petition.

If you wish to provide information regarding summer-run Issaquah Creek kokanee, you may submit your information or materials to the Manager, Western Washington Fish and Wildlife Office (see **ADDRESSES**).

#### References Cited

A complete list of all references cited is available upon request from the Western Washington Fish and Wildlife Office (see **ADDRESSES**).

#### Author

The primary authors of this document are Western Washington Fish and Wildlife Office (see **ADDRESSES**).

#### Authority

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

Dated: October 15, 2007.

#### Kenneth Stansell,

*Acting Director, Fish and Wildlife Service.*

[FR Doc. E7-20748 Filed 10-22-07; 8:45 am]

**BILLING CODE 4310-55-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 List the Mountain Whitefish (*Prosopium williamsoni*) in the Big Lost River, ID, as Threatened or 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 mountain whitefish (*Prosopium williamsoni*) occurring in the Big Lost River in Idaho 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 mountain whitefish in the Big Lost River may be warranted. This finding is based on insufficient information indicating that mountain whitefish in the Big Lost River may represent a species, subspecies, or distinct population segment (DPS) and,

therefore, a listable entity under section 3(16) of the Act. Accordingly, we will not be initiating a 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 mountain whitefish occurring in the Big Lost River at any time. This information will help us to monitor and encourage the ongoing conservation of mountain whitefish in the Big Lost River.

**DATES:** The finding announced in this document was made on October 23, 2007. You may submit new information concerning the mountain whitefish occurring in the Big Lost River for our consideration at any time.

**ADDRESSES:** Submit data, information, comments, and materials concerning this finding to the Supervisor, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Boise, ID 83709. The supporting file for this finding is available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeffery Foss, Field Supervisor, Snake River Fish and Wildlife Office (see **ADDRESSES**); telephone 208-378-5243; facsimile 208-378-5262. 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 Act requires that we 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. Such findings are based on information contained in the petition, supporting information submitted with the petition, and information otherwise readily 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 a notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information, as defined by the Code of Federal Regulations (CFR), with regards 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 the petition presents substantial scientific or commercial information, we are

required to promptly commence a status review 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 readily available in our files at the time of the petition review. We evaluated this 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 § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the "substantial information" threshold. A substantial finding should be made when the Service deems that adequate and reliable information has been presented that would lead a reasonable person to believe that the petitioned action may be warranted.

On June 15, 2006, we received a petition, dated June 14, 2006 (hereafter cited as 'Petition' 2006), from the Western Watersheds Project ('petitioner'). The petitioner requested that mountain whitefish in the Big Lost River, Idaho, be listed as threatened or endangered in accordance with section 4 of the Act. The petitioner also requested that critical habitat be designated. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required in title 50 of the Code of Federal Regulations (CFR), 424.14(a). In an August 21, 2006 letter to the petitioner, we acknowledged receipt of the petition, and explained that we would not be able to address the petition at that time due to other priorities relating to court orders and litigation settlement agreements. We further indicated that we had reviewed the petition and determined that an emergency listing was not necessary.

The petition requested that we list the mountain whitefish in the Big Lost River of Idaho as a separate species, subspecies, or in the alternative as a distinct population segment. The petition contends that mountain whitefish occupying the Big Lost River have experienced "a population decline and extirpation, and a decreased range." Threats identified in the Big Lost River include "loss and degradation of habitat due to irrigation diversions, livestock grazing, off-road vehicle use, roads; and predation, competition, and disease from non-native fish species." The petition asserts that this situation is in contrast to other populations of mountain whitefish in other drainages.

The petition was accompanied by a single document, the "Big Lost River Mountain Whitefish Status Report,"