

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List the Big Cypress Fox Squirrel as Threatened With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: The Fish and Wildlife Service announces a 90-day finding on a petition to list the Big Cypress fox squirrel (*Sciurus niger avicennia*) of Florida as a threatened species pursuant to the Endangered Species Act of 1973, as amended. After a review of all available scientific and commercial information, the Service finds the petition presented substantial information indicating that listing this species may be warranted.

DATES: The finding announced in this document was made on August 22, 1998. To be considered in the 12-month finding for this petition, information and comments should be submitted to the Service by December 8, 1998.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Michael M. Bentzien, Assistant Field Supervisor, see **ADDRESSES** section above or telephone 904/232-2580 ext. 106.

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the

Federal Register. If the finding is that substantial information was presented, the Service is also required to promptly commence a review of the status of the species involved if one has not already been initiated under the Services' internal candidate assessment process.

The processing of this petition conforms with the Service's final listing priority guidance for fiscal years 1998 and 1999 published in the **Federal Register** on May 8, 1998 (63 FR 25502). The guidance calls for giving highest priority to handling emergency situations (Tier 1); second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings, resolving the conservation status of candidate species, processing administrative findings on petitions, and processing a limited number of delistings and reclassifications; and third priority (Tier 3) to processing proposed and final designations of critical habitat. The processing of this petition falls under Tier 2.

The Service has made a 90-day finding on a petition to list the Big Cypress fox squirrel. The petition, dated December 30, 1997, was submitted by Mr. Sidney B. Maddock, Biodiversity Legal Foundation, Buxton, North Carolina, and was received by the Service on January 5, 1998. The petitioner requested the Service to list the Big Cypress fox squirrel as a threatened species and to designate critical habitat for the species. The Big Cypress fox squirrel is the southernmost subspecies of the fox squirrel (*Sciurus niger*) of the eastern and central United States. It is restricted to the southwestern Florida peninsula (Hall 1981, Humphrey and Jodice 1992). The petition stated that the Big Cypress fox squirrel is threatened by habitat loss, fragmentation, and modification; exclusion of fire; predation; road mortality; and poaching. According to the petitioner, the trend in habitat loss is expected to continue, and while the species exists on Federal conservation lands, the populations there are fragmented and occur at very low densities. The Big Cypress fox squirrel is listed as a threatened species by the Florida Game and Fresh Water Fish Commission (Commission), under Rule 39-27.004 of the Florida Administrative Code. The Commission analyzed the conservation needs of fox squirrels in Florida (Cox et al. 1994) and concluded that the Big Cypress fox squirrel lacked an adequate habitat base in current conservation areas.

The Big Cypress fox squirrel was considered a category 2 candidate for listing under the Endangered Species Act of 1973, as amended, in Service

notices of review dated December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982). At that time, a category 2 species was one for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data were not available to support a proposed rule. Designation of Category 2 species was discontinued in the February 28, 1996, **Federal Register** notice (61 FR 7596).

The Service has reviewed the petition, the literature cited in the petition, and information available in Service files. On the basis of the best scientific and commercial information available, the Service finds that the petition presents substantial information that listing this species may be warranted. While the Act does not provide for petitions to designate critical habitat, the designation of critical habitat is petitionable under the Administrative Procedures Act. As required by section 4(a)(3) of the Act, critical habitat designation will be considered if it is determined that listing is warranted. Although habitat decline for the Big Cypress fox squirrel has not been quantified, available trend information suggests that habitat loss or alteration has significantly reduced numbers of this subspecies and this trend can be predicted to continue. At least two populations have disappeared, and the squirrel occurs at very low densities over much of its range. It occurs on public conservation lands but these may not be adequate for the long-term survival of the subspecies.

References Cited

- Cox, J., R. Kautz, M. MacLaughlin, and T. Gilbert. 1994. Closing the gaps in Florida's wildlife habitat conservation system. Office of Environmental Services, Florida Game and Fresh Water Fish Commission, Tallahassee, Florida. 239 pp.
- Hall, E.R. 1981. The mammals of North America. John Wiley and Sons, New York. Vol. 1:386-387.
- Humphrey, S.R. and P.G.R. Jodice. 1992. Big Cypress fox squirrel. Pp. 224-233 in S.R. Humphrey (ed.) Rare and Endangered biota of Florida. Vol. 1: Mammals.

Author. The primary author of this document is Dr. Michael M. Bentzien (see **ADDRESSES** section).

Authority

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

Dated: August 22, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition to List the Robust Blind Salamander, Widemouth Blindcat, and Toothless Blindcat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the robust blind salamander (*Typhlomolge robusta*), widemouth blindcat (*Satan eurystomus*), and toothless blindcat (*Trogloglanis pattersoni*) under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial information indicating that listing these species may be warranted. The Service will continue to maintain files on these species and is interested in receiving additional information on their status.

DATES: The finding announced in this document was made on August 21, 1998.

ADDRESSES: Send information, comments, or questions concerning this petition to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. The petition finding, supporting information, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Lisa O'Donnell, Biologist, at the above address or telephone 512/490-0057.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (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 to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made

within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. If the finding is that substantial information was presented, the Service is also required to promptly commence a status review of the species, if one has not already been initiated under the Service's internal candidate assessment process.

On August 21, 1995, the Service received a petition to list the robust blind salamander, widemouth blindcat, and toothless blindcat as endangered. The petition, dated August 15, 1995, was submitted by Dr. Walter R. Courtney, on behalf of the American Society of Ichthyologists and Herpetologists. However, because the Service's listing program was unfunded from October 1, 1995, through April 26, 1996, the Service was precluded from making a timely 90-day finding on this petition.

As a result of the severe funding restraints for the Service's listing program in 1995 and 1996, the Service accumulated a substantial backlog of listing actions, including petition findings. In order to prioritize the order in which the Service would process this backlog of listing actions, the Service issued listing priority guidance for Fiscal Year 1996 (May 16, 1996; 61 FR 24722). That listing priority system placed petition findings in Tier 3, behind emergency listings (Tier 1), and final action on pending proposals (Tier 2). The Service issued listing priority guidance for Fiscal Year 1997 on December 5, 1996 (61 FR 64475) and extended it on October 23, 1997 (62 FR 55268). That guidance also placed petition findings in Tier 3. Under the listing priority systems for Fiscal Years 1996 and 1997, the Service's Southwest Region, assigned lead responsibility for listing actions in Texas, only recently began processing Tier 3 actions.

The Service is now operating under its Fiscal Years 1998 and 1999 listing priority guidance (May 8, 1998; 63 FR 25502). Under this guidance, processing of petition findings was placed in Tier 2. The Service's Southwest Region is now processing Tier 2 actions under this current guidance.

The petition states that the three species are faced with habitat loss due to declining water quality and quantity in the Edwards aquifer and inadequacy of existing regulatory mechanisms and should be added to the list of Threatened and Endangered Wildlife. The Service has reviewed the petition and other available information and finds that there is not substantial information to indicate that listing the robust blind salamander, widemouth

blindcat, and toothless blindcat may be warranted.

The Service has been assessing these species since their designation as category 2 candidates in 1982 (47 FR 58454). Category 2 candidates, were defined as taxa for which the Service had information indicating that protection under the Act may be warranted but for which it lacked sufficient information on status and threats to support listing proposals. On February 28, 1996, the Service discontinued the designation of multiple categories of candidates (61 FR 7596), and only those taxa for which the Service has sufficient information to support issuance of listing proposals are now considered candidates (formerly category 1).

Although the Service concurs that many Edwards aquifer species face threats from increased groundwater withdrawals and groundwater contamination, uncertainties still exist regarding the taxonomic validity and distribution of the robust blind salamander and the distributions of and extent of threats to the toothless blindcat and widemouth blindcat. The petition presented no information to resolve these uncertainties. Therefore, the Service believes that the petition did not present substantial information indicating that listing may be warranted.

The sole remaining specimen of the robust blind salamander was obtained in 1951 from a well in the dry bed of the Blanco River northeast of San Marcos, Hays County, Texas (Russell 1976, Potter and Sweet 1981). No individuals have been observed since then, and the type locality was later filled with gravel and silt. The specimen, a mature female measuring 5.7 centimeters in length, was designated as the holotype. Based on morphological differences between this individual and the Texas blind salamander (*Typhlomolge rathbuni*), which it most closely resembles, the robust blind salamander was described as a distinct species (Potter and Sweet 1981). Primary differences from the Texas blind salamander include a longer, more robust body and slightly shorter, stouter limbs. However, because the description of the robust blind salamander was based solely on the morphological characteristics of a single specimen (Russell 1976; Potter and Sweet 1981), because the type locality of the robust blind salamander is close to the known range of the Texas blind salamander, and because the appearance of the robust blind salamander is similar to that of the Texas blind salamander, the Service believes that additional research is warranted to verify whether