ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical specific information should be directed to the technical person. A written meeting summary, including an attendance list and copies of all presentations made at the meeting, will be included in the official record of this proceeding described in Unit I.B.2.

List of Subjects

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: February 14, 2001.

Charles M. Auer,

Director, Chemical Control Division.

[FR Doc. 01–4404 Filed 2–22–01; 8:45 am]

BILLING CODE 6560–50–S

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 Yellowstone Cutthroat Trout as Threatened

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 Yellowstone cutthroat trout (*Oncorhynchus clarki bouvieri*) as threatened, under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*). After review of the petition and all available scientific and commercial information, we find that the petition failed to present substantial information indicating that listing this subspecies of fish may be warranted at this time.

DATES: The finding announced in this document was made on February 15, 2001.

ADDRESSES: Requests for copies of the petition, its accompanying attachments, or other information pertaining to this petition finding should be submitted to Chief, Branch of Native Fishes Management, U.S. Fish and Wildlife Service, 4052 Bridger Canyon Road, Bozeman, Montana 59715. The petition and information used in support of the petition finding are available for inspection, during normal business hours and by appointment, at that address. The petition, as well as the complete list of references for the finding announced in the present document, also may be obtained at our Internet web site *http://www.r6.fws.gov/cutthroat/*.

FOR FURTHER INFORMATION CONTACT: Lynn R. Kaeding at the above address, or telephone 406/582–0717.

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 within 90 days of receipt of a petition, to the maximum extent practicable, we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the requested action may be warranted. The finding is based upon all information provided or referenced in the petition and all other information available to us at the time the finding is made. Such 90-day findings are to be published promptly in the **Federal Register**.

On August 18, 1998, we received a formal petition to list the Yellowstone cutthroat trout (*Oncorhynchus clarki bouvieri*) as threatened where it presently occurs in its historic range and to designate critical habitat for this subspecies of fish pursuant to the Act. The petitioners are Biodiversity Legal Foundation, Alliance for the Wild Rockies, Montana Ecosystems Defense Council, and Mr. George Wuerthner.

The Yellowstone cutthroat trout (YCT) is one of 13 subspecies of cutthroat trout recognized by Behnke (1992) that are native to interior regions of western North America. Cutthroat trout owe their common name to the distinctive red slash that occurs just below both sides of the lower jaw. Also among those 13 cutthroat trout subspecies is the finespotted Snake River cutthroat trout (*Oncorhynchus clarki* subsp.), the natural range of which is principally in the far-west, central region of Wyoming and almost entirely surrounded by that of YCT (Behnke 1992).

In their petition, the petitioners considered the finespotted Snake River cutthroat trout a morphological form of YCT. Such merging of taxons is supported by biochemical-genetic studies (cited by Behnke 1992) that revealed almost no differences between the YCT and finespotted cutthroat trout at the several gene loci examined. Nonetheless, the YCT and finespotted cutthroat trout are readily separated on the basis of the sizes and patterns of spots on the sides of the fish's body. The YCT has pronounced, medium to large spots that are round in outline and moderate in number, whereas the spots of the finespotted cutthroat trout are the smallest of any native trout in western North America and so profuse they resemble ''a heavy sprinkling of ground pepper'' (Behnke 1992).

Although Behnke (1992) considers the YCT and finespotted Snake River cutthroat trout distinct taxonomic entities, for the purposes of the finding described in this notice we will follow the position taken in the petition and consider the YCT and finespotted Snake River cutthroat trout to be a single taxonomic entity, the YCT. However, that position should not be considered the opinion of the Federal government with regard to the taxonomic validity of the finespotted Snake River cutthroat trout. Validation of such taxonomic classifications remains altogether within the domain of taxonomists, geneticists, and other qualified scientists. Furthermore, that position should not be interpreted as our criticism of, or lack of support for, ongoing management actions that treat the finespotted Snake River cutthroat trout as a unique taxonomic entity (e.g., Wichers 2000a).

The historic range of YCT generally consists of the waters of the Snake River drainage (Columbia River basin) upstream from Shoshone Falls, Idaho, and those of the Yellowstone River drainage (Missouri River basin) upstream from and including the Tongue River, in eastern Montana (Behnke 1992). Historic range in the Yellowstone River drainage thus includes large regions of Wyoming and Montana, whereas that of the Snake River drainage includes large regions of Wyoming and Idaho and small parts of Utah and Nevada (Behnke 1992). During their evolutionary history, YCT diverged genetically and morphologically from the other subspecies of cutthroat trout while YCT inhabited only the waters of the Columbia River basin. Soon after the ice of the last glacial period (i.e., the Pleistocene Epoch) receded, about 8,000 years ago, YCT from the Snake River drainage gained entry into the Yellowstone River drainage via connected headwater streams in Two Ocean Pass, south of present-day Yellowstone National Park (Behnke 1992; Trotter 1987). Subsequently, YCT spread downstream in the Yellowstone River drainage. Today, various YCT stocks remain in each of those major river drainages in Montana, Wyoming, Idaho, Utah, and Nevada.

On September 18, 1998, we notified the petitioners that our Listing Priority Guidance, published in the **Federal**

Register (63 FR 25502) on May 8, 1998, designated the processing of new listing petitions as a Tier 2 activity (i.e., of lower priority than the processing of emergency listings and pending final listing actions). We further informed the petitioners that we needed to complete a number of pending final rules, 12-month findings (e.g., westslope cutthroat trout (*Oncorhynchus clarki lewisi*) (65 FR 20120)), and other higher-priority activities before we could begin work on a 90-day finding for the YCT petition.

On January 12, 1999, we received Notice of Intent from Earthlaw, legal representatives for the petitioners, alleging that we had violated the Act by failing to make a finding as to whether or not the petition to list the YCT presented substantial information indicating that listing may be warranted. We responded to Earthlaw on February 8, 1999, reiterating that we would not be able to begin an evaluation of the YCT petition until the work on the higher-priority activities was completed. On November 12, 1999, plaintiffs filed a formal complaint in Federal District Court alleging that we had violated the Act by failing to publish a 90-day finding for their petition to list the YCT. On August 29, 2000, we reached a settlement agreement with plaintiffs stating that, among other things, we shall submit to the **Federal Register** a 90-day finding for the YCT on or before February 16, 2001.

Soon after we received the YCT petition, we provided it to natural resources agencies and Indian tribes whose responsibilities included management of YCT and their habitats. We informed those agencies and tribes of our inability to work on the petition at that time but also requested from them information on the present status of YCT, measures then underway to protect the subspecies, and comments and technical critiques pertaining to the petition. The comments that we received in response to that and subsequent requests, along with other information that was available to us, were used in arriving at the conclusions that we describe in the present document.

Petitioners' Assertions

In their petition, the petitioners assert that the range of YCT has been reduced substantially from historic levels and the subspecies faces serious, ongoing threats to its continued survival. The petitioners further assert that seven types of threats jeopardize the continued persistence of YCT. They highlighted four major threats: (1) The continuing negative effects of legal and illegal introductions and stocking of nonnative fishes that subsequently hybridize or compete with YCT, eliminate YCT through competition, or prey upon YCT; (2) excessive harvest by anglers; (3) habitat degradation and fragmentation; and (4) whirling disease (caused by a nonnative parasite).

The three additional threats to YCT identified by the petitioners are: (5) invasion of some YCT habitats by the nonnative New Zealand mud snail; (6) that contemporary management of YCT is fraught with severe deficiencies, including a general lack of emphasis on protecting and restoring habitat necessary for viable, self-sustaining YCT stocks and management programs biased toward protecting only those YCT stocks that are genetically pure; and (7) that effective, coordinated management actions directed toward protection and restoration of YCT and their habitats across the subspecies' range, as well as the mandate needed to apply more of the budgets and personnel of natural resource agencies to those activities, can only be achieved by listing the YCT as threatened under the Act. Although the petitioners acknowledge that several current management programs attempt to reduce some of the alleged threats, they assert that the majority of those threats remain inadequately addressed or entirely unaddressed.

Assessment of the Petition and Other Available Information

In response to our requests, we received information pertaining to YCT from State game and fish departments, the U.S. Forest Service, National Park Service, U.S. Fish and Wildlife Service, and tribal governments (see ''References Cited''). State game and fish departments in Montana, Wyoming, and Idaho provided detailed information on the status of YCT in their respective states, as did Yellowstone National Park. We also reviewed information on YCT obtained from scientific journal articles, agency reports, and file documents.

We evaluated whether the information provided or cited in the petition to list YCT as a threatened species met the Act's standard for ''substantial information.'' Substantial information is defined (50 CFR 424.14(b)) as ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' Consequently, we will respond to each of the major assertions made in the petition and designated by parenthetical numerals in ''Petitioners' Assertions''.

(1) The scientific and commercial information available to us does not support the assertion that continuing negative effects of legal and illegal introductions and stocking of nonnative fishes pose a significant threat to the continued existence of YCT. Present-day stocking of fish by management agencies does not pose a threat to extant YCT stocks. In Montana and in Yellowstone National Park, stocking of fishes in waters inhabited by YCT no longer occurs (Graham 1999; Varley 1999). In Idaho, only Henry's Lake, Palisades Reservoir, and Tin Cup Creek are stocked with hatchery cutthroat trout (Moore 2000a), in contrast with the petitioner's allegations. Moreover, during 2000, those few Idaho streams in which the stocking of rainbow trout (*Oncorhynchus mykiss*) continued received mostly sterile rainbow trout; it is anticipated that virtually all hatchery rainbow trout stocked in the range of YCT in Idaho in 2001 will be sterile fish (Moore 2000a). No hatchery rainbow trout of any type are presently stocked into any Idaho streams known to contain genetically pure YCT stocks (Moore 2000a). In Wyoming, maintenance of all subspecies of native cutthroat trout has been a management priority for more than 40 years (Stone 1995); State Game and Fish Commission policy precludes the stocking of fish into waters that are capable of sustaining satisfactory, self-sustaining fisheries (Stone 2000), and no hatchery rainbow trout are stocked into any streams known to contain genetically pure YCT stocks. A biologically based protocol for hatchery rearing and subsequent stocking of fish, with emphasis on management for native fish and wild fish wherever possible, has been followed in Wyoming for many years (Wiley 1995). Only 3 percent of the streams listed in the Wyoming Game and Fish Department's database inventory are stocked annually (Stone 1995).

Nonetheless, many nonnative fishes formerly stocked by management agencies have established self-sustaining stocks within the historic range of YCT. In some instances those nonnative fishes are now a concern to fisheries managers (e.g., Moore 2000a; Varley 1999) because the fish may prey upon or compete with YCT, particularly if the nonnative species move into and colonize new areas. But evidence from Montana, Idaho, and Wyoming indicates the presence of introduced, nonnative fishes does not necessarily portend the imminent decline or elimination of YCT stocks in streams (McDonald 2000; Moore 2000a; Wichers 2000a). Illegal

introductions of nonnative fishes remain a problem, as evidenced by the recent discovery of a reproducing population of nonnative lake trout (*Salvelinus namaycush*) in Yellowstone Lake, in Yellowstone National Park. The petitioners consider those lake trout a major threat to YCT in Yellowstone Lake and its connected streams. Although the National Park Service also considers the lake trout a serious threat to the lake's YCT stocks, the magnitude of that threat cannot be determined at the present time; park personnel are aggressively reducing the lake trout population in the lake, and some important indicators of YCT abundance in the lake actually show evidence of increasing trends (Varley 1999). For example, size of the YCT spawning run in Clear Creek in 1998 was triple the record-low size recorded in 1994 and cited by the petitioners, and numbers of YCT spawning in many smaller tributaries of Yellowstone Lake in 1998 were similar to those recorded in the mid-1980s. The YCT that spawn in those streams live most of the year in Yellowstone Lake. Furthermore, because the lake trout is almost exclusively a lake-dwelling species, its presence in the lake does not pose a threat to YCT stocks outside the immediate Yellowstone Lake area (Varley 1999).

Interbreeding of YCT and introduced, nonnative fishes is a concern to resource management agencies because it can lead to genetic introgression and the loss of genetically pure YCT. There are many examples of such interbreeding throughout the range of YCT (McDonald 2000; Moore 2000a; Wichers 2000a). However, the presence of nonnative fishes in a drainage inhabited by YCT does not always lead to such interbreeding. For example, YCT in the upper region of the Lamar River in Yellowstone National Park have remained genetically pure even though that region is accessible to nonnative, potentially interbreeding rainbow trout that have inhabited lower river areas for 60 years (Varley 1999). Even in the Yellowstone River, Montana, where nonnative rainbow trout are common, large numbers of genetically pure YCT have recently been found (Montana Department of Fish, Wildlife and Parks 2000). Similarly, analyses now underway have revealed numerous, genetically pure YCT stocks in Idaho, and several stocks formerly assumed to be genetically introgressed with rainbow trout have proven to be genetically pure (Moore 2000a).

(2) The scientific and commercial information available to us does not support the assertion that angler harvest poses a significant threat to the continued existence of YCT. Restrictive angling regulations preclude significant negative effects of angler harvest on YCT stocks throughout the subspecies' historic range (Graham 1999; Moore 1998, 2000a; Varley 1999; Wichers 2000a). For example, in Yellowstone National Park, virtually no YCT may be legally harvested by anglers (Varley 1999); the same is true for YCT in their natural habitats in Montana (Montana Department of Fish, Wildlife and Parks 2000).

(3) The scientific and commercial information available to us does not support the assertion that habitat degradation and fragmentation pose significant threats to the continued existence of YCT. The petitioners generally fail to recognize any of the efforts that are ongoing to address the impacts on YCT habitat of various management activities (Graham 1999). For example, the U.S. Forest Service, Targhee National Forest, treats YCT as a Sensitive Species. The Revised Forest Plan incorporates the standards and guidelines from the interagency Inland Native Fish (INFISH) Strategy in managing YCT stocks and their habitats. Biological evaluations are prepared for proposed activities that may affect YCT habitat; those activities must not result in loss of species viability or increase the likelihood of Federal listing of the species under the Act (Reese 1998a). Similarly, the Caribou National Forest applies INFISH or more stringent standards on all forest waters containing native fish, including YCT (Reese 1998b). The YCT is designated a Sensitive Species by the Northern, Intermountain, and Rocky Mountain Regions of the U.S. Forest Service; with that designation comes specific direction applicable to YCT management and conservation on National Forest System lands (Bosworth 2000). That direction includes assisting States in achieving their conservation goals for the subspecies; National Environmental Policy Act compliance is required for all proposed management actions; and management decisions must not result in loss of species viability or create significant trends toward listing under the Act. It is important to recognize that, outside of Yellowstone National Park, most extant YCT stocks inhabit waters on National Forest System lands (Bosworth 2000). During Fiscal Year 1999, 22 projects or activities that benefitted YCT were initiated or completed on those National Forest System lands (Bosworth 2000). Each of the seven National Forests that contains historic YCT habitat is expected to have specific direction associated with conservation of YCT in their forthcoming, revised Land Resource Management Plans (Bosworth 2000). In Montana, there are numerous, ongoing projects to protect and restore habitats for YCT or in other ways benefit the subspecies (McDonald 2000; Montana Department of Fish, Wildlife and Parks 2000). In Idaho, at least 125 actions have been or are being directed at improving YCT stocks and their habitats (Moore 2000a), and many similar actions are being or have been undertaken in Wyoming (Wichers 2000a). Degradation of YCT habitat as the result of land-management activities is rare in Yellowstone National Park, where there has been no livestock grazing or timber harvest, water-quality in the Soda Butte Creek drainage, which includes important habitats for YCT, has been and is being improved as a result of efforts to clean up historic mine wastes (Varley 1999). Habitat fragmentation is a consequence of habitat degradation. Thus management actions directed toward the prevention of habitat degradation, such as those just described, also will reduce the likelihood of habitat fragmentation.

(4) The scientific and commercial information available to us does not support the assertion that whirling disease poses a significant threat to the continued existence of YCT. The presence of the whirling disease parasite, *Myxobolus cerebralis*, is a concern to all managers of YCT (e.g., Varley 1999; Wichers 2000a), but the petitioners provide no evidence that the threat posed by whirling disease is not being effectively countered by ongoing management actions or that the threat is equally applicable to extant YCT stocks across the range of the subspecies. The petitioners generally fail to mention any of the restrictive measures now being taken to limit the spread of the disease. Furthermore, the petitioners wrongly imply that the stocking of hatchery fish is an important factor in the spread of whirling disease. Montana does not stock whirling disease-positive fish (Graham 1999), nor does Wyoming (Wichers 2000a). In addition, although the whirling disease parasite may be present in a stream, the disease may have little effect on the stream's YCT stock. For example, although whirling disease has been documented in some streams in Idaho, there is no evidence of YCT population declines in those streams (Moore 2000a). Similarly, in Wyoming, although whirling disease has been found in one stream, there is no evidence of subsequent declines in that stream's fish stocks (Wichers 2000a).

Factors that affect the intensity of infection by *Myxobolus cerebralis* in various salmonid fishes include host (fish) species and variety, parasite dosage, host age and size when exposed to the parasite, and water temperature (Vincent 2001). Thus there is considerable variation in infection intensity among the species of salmonid fishes and among Montana streams, as well as seasonally within streams. Water temperature can have a particularly important effect on infection intensity, perhaps by affecting parasite-host attachment success or the production of parasites themselves by the alternate host, an aquatic earthworm, *Tubifex tubifex* (Vincent 2001). Studies conducted in Montana show infection rates in salmonid fishes are highest at mean water temperatures between 12 and 15 C (53 to 59 F), and decline rapidly at temperatures below 12 C or above 17 C. The available evidence thus suggests that YCT stocks that inhabit typical cold streams in high-elevation regions are unlikely to be adversely affected by whirling disease. Montana has an extensive research and monitoring program directed toward whirling disease (Montana Department of Fish, Wildlife and Parks 2000), and similar work is underway in Yellowstone National Park and Wyoming (Varley 1999; Wichers 2000a).

(5) The scientific and commercial information available to us does not support the assertion that the nonnative New Zealand mud snail poses a significant threat to the continued existence of YCT. Within the historic range of YCT, the New Zealand mud snail has been found in the Yellowstone River in and near Yellowstone National Park and in the Snake River drainage in the park, Wyoming, and Idaho (Gangloff 1998; Richards et al. In press). However, the petitioners provide no evidence that YCT stocks in those or other areas face important threats from New Zealand mud snail, nor that those threats are equally applicable to other YCT stocks across the range of the subspecies. Whether the form of New Zealand mud snail that occurs in those waters has the potential to spread widely throughout the region, and the types of aquatic habitats that may be most vulnerable to such invasion, are presently unknown (Gangloff et al. 1998). Gangloff et al. (1998) cite evidence suggesting New Zealand mud snail may not be a nutritious food for YCT. Although the effects that New Zealand mud snail may have on YCT in Yellowstone National Park also are presently unknown, the National Park Service is actively monitoring the snail in the park and imposing measures to prevent its spread (Varley 1999). Similarly, elsewhere in Wyoming, monitoring for the presence of New Zealand mud snail is ongoing (Wichers 2000a).

(6) The scientific and commercial information available to us does not support the assertion that contemporary management of YCT does not emphasize protecting and restoring habitat and is biased toward protecting only those YCT stocks that are genetically pure. This assertion is addressed under items 1 and 3 above and elsewhere in this document. According to Graham (2000), the petitioners falsely state that the U.S. Forest Service is facilitating hatchery and stocking programs in lieu of habitat management in Montana. Similarly, Wyoming's management program for YCT is not solely or chiefly based on fish hatcheries; moreover, Wyoming protects all YCT stocks regardless of their genetic characteristics, including those stocks for which no detailed genetics information is available (Stone 1998; Wichers 2000a).

(7) The scientific and commercial information available to us does not support the assertion that only by listing the YCT as threatened under the Act will effective, coordinated management actions directed toward protection and restoration of YCT and their habitats be achieved across the subspecies' range. Each of the items addressed above describes management actions directed toward protection of YCT and their habitats that are being accomplished without the YCT being listed under the Act. Moreover, the petition fails to mention additional, important, and ongoing management and conservation actions directed toward YCT. In Montana, for example, an important conservation agreement involves YCT and their habitats on National Forest System lands (Bosworth 2000; Graham 1999; Montana Department of Fish, Wildlife and Parks 2000), and the State legislature has appropriated substantial funding directed specifically toward management of native trout such as YCT (Montana Department of Fish, Wildlife and Parks 2000). A Memorandum of Agreement for conservation and management of YCT across the historic range of the subspecies was recently signed by the States of Montana, Idaho, Wyoming, Nevada, and Utah, the U.S. Forest Service, and Yellowstone and Grand Teton National Parks (Bosworth 2000; Montana Department of Fish, Wildlife and Parks 2000; Wichers 2000a). The principal goal of that agreement is to ensure the persistence of YCT within the subspecies' historic range. In Yellowstone National Park, National Park Service management policies state that native species like YCT are to be protected and given priority status over nonnative species; the park continues to dedicate the majority of its aquatic resources program to preserving YCT (Varley 1999). Numerous, additional examples of ongoing, progressive management of YCT and their habitats are found in the major documents in ''References Cited''.

Petition Finding

There is agreement among the principal resource-management agencies that the distribution of YCT has declined from historic levels (Graham 1999; Moore 1998, 2000a; Moser 1998; Varley 1999; Wichers 2000a), although the extent of YCT historic range is largely assumed and the subspecies may not have formerly occurred in all areas (Moore 1998; Wichers 2000a). Nevertheless, those agencies also reported that viable YCT stocks remain in each of the major watersheds occupied historically in the Snake and Yellowstone River drainages. In Montana, 40 genetically pure YCT stocks are known to inhabit at least 433 linear miles of stream (estimated as at least 10 percent of the total stream miles that may have been historically occupied by the fish); YCT in an additional 71 miles of stream are between 90.0 and 99.9 percent pure, and 56 stream miles are inhabited by YCT less than 90.0 percent pure (Montana Department of Fish, Wildlife and Parks 2000). In Idaho, YCT presently inhabit 209 streams or stream segments (totaling 1,629 linear miles) distributed among 13 watersheds in the historic range of the subspecies (Moore 2000a). Moreover, data collected over the past two decades demonstrate YCT stocks in Idaho are stable or increasing in individual size (Moore 2000a, b). In Yellowstone National Park, genetically pure YCT are known to occupy 586 miles of stream; YCT in 212 miles of stream are genetically introgressed with other fishes, primarily rainbow trout; and YCT may also occur in many additional, small streams that have not yet been surveyed (Lutch 2001). Nonetheless, all of those YCT stocks are highly protected by National Park Service policies. In Wyoming exclusive of the park, genetically pure YCT occur in 2,507 miles of stream; an additional 631 miles of stream sustain YCT and nonnative rainbow trout, with which YCT may interbreed (Wiley 2000). In addition, stocking of YCT has resulted in establishment of numerous YCT stocks outside the probable historic range of the subspecies in Wyoming (Wichers 2000a). In the small portion of historic YCT range that lies in Nevada, survey

records indicate YCT occur in 53 miles of stream in the Goose Creek drainage; some of those fish are genetically pure (Haskins II 1999). We found no current information on the occurrence of YCT in Utah.

Our review of the available information also revealed that most of the habitat for extant YCT stocks lies on lands administered by Federal agencies, particularly the U.S. Forest Service and National Park Service. Many of those YCT stocks occur within roadless or wilderness areas or national parks, all of which afford considerable protection to YCT. In addition, there are numerous Federal and State regulatory mechanisms and agency policies and guidelines that, if properly administered and implemented, protect YCT and their habitats throughout the range of the subspecies. The petitioners provide no important evidence that YCT stocks are generally threatened due to an inadequacy of regulatory mechanisms or that such threats, where they may exist, are equally applicable to other YCT stocks across the range of the subspecies. Finally, each of the principal State and Federal agencies responsible for YCT management has a long history of working to conserve the subspecies (Graham 1999; Moore 2000a; Stone 1998; Wichers 2000a; Varley 1999).

In the context of the Act, the term ''threatened species'' means any species (or subspecies for vertebrate organisms) which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The term ''endangered species'' means any species which is in danger of extinction throughout all or a significant portion of its range. The Act does not indicate threshold levels of historic population size at which (as the population of a species declines) listing as either ''threatened'' or ''endangered'' becomes warranted. Instead, the principal considerations in the determination of whether or not a species warrants listing as a threatened or endangered species under the Act are the threats that currently confront the species and the likelihood that the species will persist in ''the foreseeable future.'' Thus the Act clearly implies that the rate of decline in the population, at the time listing is being considered, is particularly important.

In their petition, the petitioners provide no evidence that the YCT population as a whole is declining toward extinction in the foreseeable future, nor do they present data or models that suggest the extinction probability for the YCT population is high. Although the petitioners provide evidence that YCT stocks in some areas of the subspecies' current range are confronted by important threats, as described in the preceding section of the present notice, they provide no evidence that those threats are not being effectively countered by ongoing management actions or that the threats are equally applicable to other YCT stocks across the range of the subspecies.

Although the petitioners assert that there is widespread genetic variation among YCT stocks, studies have in fact revealed such variation is small (Allendorf and Leary 1988; Leary et al. 1988). The petitioners further assert, either directly or indirectly, that each YCT stock should be evaluated as if it constituted a Distinct Population Segment (DPS), but they provide no evidence that indicates any individual stock or aggregate of stocks is distinct according to established DPS guidelines (61 FR 4722). Although several YCT life-history forms are recognized and occur in many stocks across the subspecies' range, it is not known whether those forms represent genetic differences among forms or simply opportunistic behaviors.

In conclusion, based on the scientific and commercial information available to us, we find that the petition failed to present substantial information indicating that listing the YCT as threatened under the Act may be warranted at this time. Although the petition includes a long list of references, its justification for listing YCT is based on only a few references that often no longer provide current information on YCT (Bosworth 2000; Brassfield 1998; Graham 1999; Stone 1998; Wichers 2000a). Much information on YCT has been gathered during the past decade, and more is being gathered presently (Bosworth 2000; Graham 1999; Montana Department of Fish, Wildlife and Parks 2000; Moore 1998, 2000a,b; Stone 1998; Wichers 2000a). In addition we found the petition to list YCT as a threatened subspecies under the Act contains numerous erroneous or contradictory statements (Bosworth 2000; Brassfield 1998; Moore 1998, 2000a; Reese 1998b; Stone 1998; Varley 1999; Wichers 2000a). At least two of the key State game and fish departments were not even consulted by the petitioners regarding the current distribution or status of YCT in their States (Graham 1999; Moore 2000a). Finally, the petitioners generally discount important, ongoing management actions directed toward the protection of YCT and their habitats.

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Authority

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

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Marshall P. Jones Jr.,

Acting Director, Fish and Wildlife Service.

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