



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R8-ES-2023-0261; FF09E21000 FXES1111090FEDR 245]

Endangered and Threatened Wildlife and Plants; 90-Day Finding for the Kings River Pyrg

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to add the Kings River pyrg (*Pyrgulopsis imperialis*) to the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition to list the Kings River pyrg presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, with the publication of this document, we announce that we are initiating a status review to determine whether the petitioned action is warranted. To ensure that the status review is comprehensive, we request scientific and commercial data and other information regarding Kings River pyrg and factors that may affect its status. Based on the status review, we will issue a 12-month petition finding, which will address whether or not the petitioned action is warranted, in accordance with the Act.

DATES: This finding was made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. As we commence our status review, we seek any new information concerning the status of, or threats to, the Kings River pyrg or its habitats. Any information we receive during the course of our status review will be considered.

ADDRESSES: *Supporting documents:* A summary of the basis for the petition finding contained in this document is available on <https://www.regulations.gov> in Docket No. FWS-R8-

ES-2023-0261. In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the Kings River pyrg or its habitat, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2023-0261, which is the docket number for this action. Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment.” If your information will fit in the provided comment box, please use this feature of <https://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2023-0261, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Justin Barrett, Deputy Field Supervisor, Reno Fish and Wildlife Office, telephone: 775–861–6300, email: justin_barrett@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (i.e., “list” a species), remove a species from the List (i.e., “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (i.e., “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)). A positive 90-day petition finding does not indicate that the petitioned action is warranted; the finding indicates only that the petitioned action may be warranted and that a full review should occur.

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)).

The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes

(Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and

conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat) are reviewed under the Administrative Procedure Act (5 U.S.C. 551 et seq.) and are not addressed in this finding (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

Summary of Petition Finding

Species and Range

Kings River pyrg (*Pyrgulopsis imperialis*); Humboldt County, Nevada.

Evaluation of Information Summary

On October 31, 2023, we received a petition from the Western Watersheds Project, requesting that the Kings River pyrg, an endemic springsnail found in Humboldt County, Nevada, be listed as an endangered species or a threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding spring modification (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing the Kings River pyrg may be warranted. The petition presents credible information that all 13 known springs occupied by the Kings River pyrg exhibited signs of habitat disturbance during 2018 surveys and that the flows of 4 occupied springs have already been modified.

The petition discusses several additional threats, which could ultimately result in spring modification and impacts to Kings River pyrg habitat. These threats include livestock grazing, roads, drought, climate change, and the Thacker Pass Lithium Mine. The current State of Nevada Division of Environmental Protection (NDEP) Water Pollution Control permit for the Thacker Pass Lithium Mine does not authorize mining below the groundwater table (NDEP 2022), which as written, may significantly reduce the potential for spring modification from this project. The petitioners also presented information suggesting that nonnative aquatic species, small population size and limited distribution, and the species' lack of mobility may be threats to the Kings River pyrg. We will fully evaluate all potential threats to the species during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found as an appendix at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2023-0261 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petition under section 4(b)(3)(A) of the Act, we have determined that the petition summarized above for the Kings River pyrg presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are, therefore, initiating a status review of the species to determine whether the action is warranted under the Act. At the conclusion of the status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned action is not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

Authors

The primary authors of this document are staff members of the Pacific Southwest Region, Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

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

Martha Williams,
Director,
U.S. Fish and Wildlife Service.