



Figure 31 - Truck Tractor Conspicuity Treatment Example

Issued on May 23, 1995.

Barry Felrice,

*Associate Administrator for Safety
Performance Standards.*

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Recycled Petition Finding for a Petition To List the Bull Trout as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month recycled petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month recycled petition finding for a petition to list the bull trout (*Salvelinus confluentus*) under the Endangered Species Act of 1973, as amended. The Service finds that sufficient information is available on the biological vulnerability and threats to the species to support a warranted finding to list bull trout as a distinct population segment within the conterminous United States. After review of all available scientific and commercial information, the Service finds that listing this species is warranted, but precluded due to other higher priority listing actions. The Service continues to seek data and comments from the public on the status and threats to this species.

DATES: The finding announced in this document was made on May 31, 1995. Comments and information may be submitted until further notice.

ADDRESSES: Data, information, comments, or questions concerning this finding should be submitted to the Idaho State Supervisor, U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho, 83705. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Idaho State Supervisor (see ADDRESSES section), at 208/334-1931.

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(B)(iii) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Service may make "warranted but precluded" findings on petitions to revise the Lists of Endangered and Threatened Wildlife and Plants if an immediate proposed rule is precluded by other pending proposals. Section 4(b)(3)(C)(i) of Act requires that any petition for which a 12-month finding of "warranted but

precluded" is made should be treated as if it was resubmitted on the date such finding was made. As a result, the Service must make one of the findings described in section 4(b)(3)(B) within 12 months of the most recent "warranted but precluded" finding (50 CFR 424.14(b)(4)). On June 10, 1994 the Service published a notice of petition finding (59 FR 30254) that determined listing a distinct vertebrate population segment of bull trout (*Salvelinus confluentus*) residing in the conterminous United States is "warranted, but precluded" due to other higher priority listing actions. This finding was made on a petition received October 30, 1992 from the Alliance for the Wild Rockies, Inc., Friends of the Wild Swan, and Swan View Coalition requesting that the bull trout be listed as an endangered species throughout its range. The Service determined that the threats facing the bull trout were imminent but of moderate magnitude. Therefore, in accordance with the Service's listing priority system (48 FR 43098), the listing priority number assigned to this population was 9.

Following the June 10, 1994 "warranted but precluded" finding (59 FR 30254), the Service solicited and continued to evaluate new information regarding the status of bull trout, as well as information pertinent to the present and future threats facing the species. In January 1995, the Service reevaluated the listing priority for the bull trout in the conterminous United States. At this time, there was uncertainty over the status of pending State and Federal actions, such as PACFISH and a new emphasis on timber harvest proposals in areas damaged by fires and insects. Following this reevaluation, the Service concluded that threats previously considered moderate in several watersheds were now of high magnitude and that the majority of the populations were subject to imminent threats of high magnitude. On January 31, 1995, the service elevated the listing priority for the species from 9 to 3.

In evaluating the current status of the bull trout to make the required annual recycled petition finding, information received from a variety of agency and private sources has been fully considered. The Service has carefully assessed the best scientific and commercial information available and has determined that sufficient information exists on the biological vulnerability and threats to the species to continue to support a warranted finding to list bull trout within the conterminous United States. While some of the remaining bull trout populations appear to be stable, all

populations with one exception face one or more threats that may result in their future decline.

In conjunction with the determination that listing the bull trout within the conterminous United States was warranted, the Service evaluated the magnitude and imminence of threats faced by bull trout populations in over 60 watersheds in the course of assigning a priority for listing. While watersheds may contain several populations, the Service used watersheds as the evaluation units because in most cases threats in a watershed apply to all populations.

Actions recently taken at both the Federal and State levels are beginning to reverse the long-term decline of bull trout. The Forest Service and Bureau of Land Management, by implementing the President's Forest Management Plan, PACFISH, the Inland Native Fish Strategy and the Eastside Columbia Basin Environmental Impact Statements' recommendations, have initiated activities that will reduce the magnitude of threats to bull trout. In addition, the States of Idaho, Montana, Oregon, and Washington, through their development of bull trout protection agreements, are setting in place activities that will assist the recovery of the bull trout. The Service believes that these activities provide conservation actions and management strategies that will recover and sustain populations of the bull trout.

Based on an evaluation of the bull trout's status in the known watersheds of occurrence and actions undertaken by Federal agencies and the States, the Service's evaluation has determined that the majority of bull trout populations within the conterminous United States faces imminent threats of moderate magnitude. Therefore, bull trout populations residing within the conterminous United States have been assigned a listing priority number of 9.

Recently enacted legislation (P.L. 104-6) imposed a listing moratorium of the remainder of Fiscal Year 1995, and rescinded \$1.5 million from the Service's Fiscal Year 1995 listing funds. In response to this legislation, the Service will focus its limited resources on category 1 species, especially those with listing priority numbers of 2 or 3. Therefore, a listing proposal for bull trout in the conterminous United States remains "warranted but precluded."

Section 4(b)(3)(B)(iii) of the Act provides that the Service may make "warranted but precluded" findings only if it can demonstrate that expeditious progress is being made on other listing actions. Since October 1, 1993, the Service has proposed the

listing of 118 species and finalized the listing of 182 species. The Service believes this demonstrates expeditious progress on other listings.

References Cited

A complete list of references used in the preparation of this finding is available, upon request, from the Idaho State Office (see ADDRESSES section).

Author. The primary authors of this document are Patricia Klahr and Steve Duke (see ADDRESSES section); Bob Hallock, Northern Idaho Office, 11103 East Montgomery Drive, Suite 2, Spokane, WA; Lori Nordstrom, Helena Field Office, P.O. Box 10023, Helena, MT; Shelley Spalding, Washington State Office, 3704 Griffin Lane SE, Suite 102, Olympia, WA.

Authority

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

Dated: June 6, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95-14284 Filed 6-9-95; 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Plant *Lathyrus grimesii* (Grimes vetchling) as Endangered in Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list *Lathyrus grimesii* (Grimes vetchling) as an endangered species under the emergency provisions of the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information concerning the status of the species, the Service finds that listing *Lathyrus grimesii* is not warranted.

DATES: The finding announced in this document was made on May 2, 1995.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 4600 Kietzke Lane, Building C-125, Reno, Nevada 89502. The petition, findings, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Janet Bair, staff biologist, at the above address, or telephone 702-784-5227.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals. Such 12-month findings are to be published in the **Federal Register**.

On May 19, 1993, the Service received a petition dated May 10, 1993, to emergency list the plant *Lathyrus grimesii* (Grimes vetchling) as an endangered species. The Service's finding that substantial information existed indicating the petitioned action may be warranted, was published in the **Federal Register** on July 11, 1994 (59 FR 35304). A status review was initiated at that time.

Lathyrus grimesii, a member of the pea family (Fabaceae), is a perennial herb known only from the Independence Mountains and vicinity in Elko County, Nevada. At the time the petition was submitted to the Service, the total distribution of *Lathyrus grimesii* was believed to be restricted to three or four small populations located within an area smaller than 2 square kilometers (approximately 1 square mile) in the Dorsey Creek drainage of the Independence Mountains. All but one of these populations were located in the immediate vicinity of an area proposed for gold mine exploration.

Based on these data, the petition and supporting information suggested all known populations of *Lathyrus grimesii* were likely to be affected by gold exploration or mine development. However, the Forest Service, in conjunction with other agencies and concerned entities, modified the project so as to avoid all direct and most indirect impacts to the *Lathyrus grimesii* populations. In December 1993 the Service was notified that minerals exploration in this area was not successful and no further exploration was planned.

Data collected by Humboldt National Forest, Independence Mining Company, Inc., and Nevada Natural Heritage Program during the summers of 1993 and 1994 indicates that *Lathyrus*

grimesii is more abundant than previously believed. Aerial and ground field surveys resulted in identification of 67 total populations of *Lathyrus grimesii*, located in nine separate drainages in the Independence Mountains. These populations collectively cover approximately 150 to 200 hectares (400 to 500 acres), distributed over an area of about 130 square kilometers (50 square miles) (James Morefield, Nevada Natural Heritage Program, *in litt.* 1994). In addition, a separate population occurs on Wilson Peak in the neighboring Bull Run Mountains. Approximately 30 percent of the known populations occur on private lands, while approximately 70 percent occur on lands under Forest Service management. A very small proportion of the known populations (approximately 1 percent) occur on lands managed by the Bureau of Land Management in the Bull Run Mountains.

The existence of disseminated gold has resulted in mine claims throughout the Independence Mountains as well as exploration projects and mine development in several areas. The recently discovered populations of *Lathyrus grimesii* occur on lands with high mineral potential (Dean Morgan, Humboldt NF, Mountain City Ranger District, *in litt.* 1994). However, while mine claims have been established in this area, exploration has not occurred. The few roads into the area are located primarily on private inholdings. Any extensive exploration of this area will require building new roads or agreements with the private landowners for access. Humboldt National Forest has not received any new proposals for mine exploration, development, or associated activities in areas populated by *Lathyrus grimesii*.

Livestock grazing is presently a dominant land use in the vicinity of the recently discovered populations. Grazing effects were noted as moderate to severe at some sites in 1994, and cattle were observed grazing on the dried stems of *Lathyrus grimesii* within one population (James Morefield, *in litt.* 1994). Grazing of green stems during flowering and fruiting has not been observed. Humboldt National Forest has notified ranchers of the presence of *Lathyrus grimesii* and advised them to minimize livestock movements through the populations (Jim Nelson, Humboldt NF, *in litt.*, 1994).

The petition indicated that *Lathyrus grimesii* qualified for listing, in part, because of the inadequacy of existing regulatory mechanisms. In April 1994, *Lathyrus grimesii* was added to the Forest Service's Intermountain Region's