

47 CFR Part 73

[MM Docket No. 96-244; RM-8936]

**Radio Broadcasting Services;
Madison, IN**

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition filed on behalf of Edward E. Guinn, which requested the allotment of Channel 266A to Madison, Indiana, as that community's second local FM transmission service, based upon the collective withdrawal of interest by all parties to the proceeding in pursuing the proposal. See 61 FR 65508, December 13, 1996. With this action, the proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-244, adopted March 19, 1997, and released March 28, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-8440 Filed 4-2-97; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Santa Ana Sucker as Endangered**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U. S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Santa Ana sucker (*Catostomus santaanae*) under the Endangered Species Act of 1973, as amended (Act). The Santa Ana sucker is found in small shallow streams in southern California, and although described as common in the 1970s, the species has experienced declines throughout most of its range because of urbanization, water pollution, dams, introduced non-native fishes, and other human-caused disturbances. The Service finds that the petition to list the Santa Ana sucker is warranted but precluded by other listing actions of higher priority.

DATES: The finding announced in this document was made on March 27, 1997. Comments from all interested parties may be submitted until further notice.

ADDRESSES: Data, information, comments, or questions concerning this finding should be submitted to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul J. Barrett, Carlsbad Field Office see ADDRESSES section) (telephone 619/431-9440 or facsimile 619/431-9624).

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(B) of the Act requires that for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information indicating that the petitioned action may be warranted, 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 promptly in the **Federal Register**. Section 4(b)(3)(B)(iii) of the Act states that the Service may make warranted but precluded findings if it can demonstrate that an immediate proposed rule is precluded by other pending proposals and that expeditious progress is being made on other listing actions. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e.,

requiring a subsequent finding to be made within 12 months.

Because of budgetary constraints and the lasting effects of the congressionally imposed listing moratorium, the Service is processing petitions and other listing actions according to the listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance for fiscal year 1997 clarifies the order in which the Service will process listing activities with appropriated funds. Administrative findings for listing petitions that are not assigned to tier 1 (emergency listing actions) will be processed as a tier 3 priority (61 FR 64480). Further action on the subject petition falls within tier 3 of the current guidance. Because of pending proposed species listings (tier 2 activities), the Pacific Region (Region 1) will be primarily processing final decisions on proposed rules during fiscal year 1997 (61 FR 64477). However, as the Pacific Region nears completion of its pending tier 1 and 2 actions, the Service expects Region 1 to begin processing some tier 3 actions later this fiscal year. Priority within tier 3 will be given to new proposals for species facing high-magnitude, imminent threats (61 FR 64480), especially court-ordered proposals for such species with listing priority numbers of 1 through 3 (e.g., *Fund for Animals v. Babbitt*, Civ. No. 92-800 (SS) (D.D.C.)).

On September 6, 1994, the Service received a petition under the Act to list the Santa Ana speckled dace (*Rhinichthys osculus* ssp.), Santa Ana sucker (*Catostomus santaanae*), and the Shay Creek threespine stickleback (*Gasterosteus aculeatus* ssp.) as endangered species. The petition was submitted by the Sierra Club Legal Defense Fund, Inc. (located in San Francisco, California), on behalf of seven groups. The seven groups are the California-Nevada Chapter of the American Fisheries Society, The Nature School, The California Sportfishing Protection Alliance, Friends of the River, Izaak Walton League of America, California Trout, and Trout Unlimited.

A timely finding on the subject petition was precluded by higher priority listing actions and budget constraints. On May 16, 1996, the Service published a description of how it would prioritize the various listing actions for the remainder of fiscal year 1996 (61 FR 24722). Based on this listing priority guidance, the 90-day finding was designated as a tier 3 action, and the processing of tier 3 actions was not expected to begin during the remainder of fiscal year 1996. Despite requests for deference to the listing

priority guidance, however, the Service was compelled by court order to issue the 90-day finding.

On July 9, 1996, the Service published a 90-day petition finding (61 FR 36021) that substantial information had been presented indicating the requested action may be warranted for the Santa Ana sucker. This same 90-day petition finding stated that the petition did not present substantial scientific or commercial information indicating the petitioned action may be warranted for the Santa Ana speckled dace and Shay Creek threespine stickleback because it did not substantiate that the two taxa are described species, subspecies, or distinct vertebrate population segments as required under current Service policy (61 FR 4722) to be considered for listing. Furthermore, the Service presently regards the Shay Creek threespine stickleback as a population of the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), a species that is already listed as endangered. While work on the 12-month finding, also a tier 3 activity, would not have been initiated under the listing priority guidance, the Service subsequently initiated a status review for the Santa Ana sucker pursuant to an October 10, 1996, court order.

The Service has carefully assessed the best scientific and commercial information available regarding the present and future threats facing the Santa Ana sucker. This analysis is documented in the Service's Administrative 12-Month Finding on a Petition to List the Santa Ana Sucker as Endangered (Finding). Although the Santa Ana sucker was described as common in the 1970s (Moyle 1976), the species has experienced declines throughout most of its range (Moyle and Yoshiyama 1992). This apparent overall decline in population numbers is particularly surprising given the high reproductive capability and broad habitat tolerances of this species. Much of the remaining range of the Santa Ana sucker is threatened by urban encroachment, extreme alteration of river channels, degraded water quality, dam operations, water diversions, introduction of exotic predators and competitors, other human-caused factors (e.g., adverse impacts associated with human recreational activities), as well as small populations and associated genetic concerns. Of the four known populations of the Santa Ana sucker, two populations are mostly within the Angeles National Forest. Urban encroachment and alteration of river channels are not a threat to these two populations, one of which is extant upstream of the confluence of the East,

West, and North forks of the San Gabriel River and may contain the most individuals of any remaining population. Therefore, the Service concludes that the magnitude of threats facing the Santa Ana sucker are moderate.

The Service determines, as a result of its status review, that sufficient information is currently available to support a proposed rule to list the species as endangered or threatened. According to Service policy published in the **Federal Register** on May 12, 1993 (58 FR 28034), such species are assigned candidate status and given a listing priority number. Guidelines for assigning listing priorities were published in the **Federal Register** on September 21, 1983 (48 FR 43098). Consequently, given the moderate threats facing the Santa Ana sucker throughout its range, the Service hereby assigns the Santa Ana sucker a listing priority number of 8.

Under the Service's current system of proposing species for listing based on the magnitude and imminence of threats facing a species, the Service considers listing species with higher listing priority numbers first. Since the moratorium was lifted on April 26, 1996, the Service has completed 131 final determinations (publication of final rules for endangered and threatened species and withdrawals of proposed rules). The Service believes that this demonstrates that expeditious progress is being made to list and delist species under the Act. Despite this progress, listing actions are currently pending for many species that have higher listing priority numbers than the Santa Ana sucker. Those species include a large number of species facing high magnitude and imminent threats (listing priority numbers of 1, 2, or 3). Given that the Santa Ana sucker has a listing priority number of 8 in light of the threats of moderate magnitude, the Service finds that listing the Santa Ana sucker is warranted but precluded by listing actions of higher priority.

References Cited

A complete list of references used in the preparation of this finding is available upon request from the Carlsbad Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Paul J. Barrett, Carlsbad Field Office (see **ADDRESSES** section), telephone 619/431-9440.

Authority

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

Dated: March 27, 1997.

John G. Rogers,

Director, Fish and Wildlife Service.

[FR Doc. 97-8450 Filed 4-2-97; 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Public Hearing on Proposed Rule to List the Northern Population of the Bog Turtle as Threatened and the Southern Population as Threatened Due to Similarity of Appearance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the Service's proposal to list the northern population of the bog turtle (*Clemmys muhlenbergii*) as threatened from New York and Massachusetts south to Maryland; and the southern population of the bog turtle, which occurs in the Appalachian Mountains from southern Virginia to northern Georgia, as threatened due to similarity of appearance to the northern population, with a special rule, pursuant to the Endangered Species Act of 1973, as amended. The bog turtle is threatened by a variety of factors which include: habitat degradation and fragmentation from agriculture and urban development; habitat succession due to invasive exotic and native plants; and illegal trade and collection.

DATES: The public hearing will be held April 21, 1997, from 7 p.m. to 9 p.m. (Eastern Standard Time). The formal comment period closes on April 29, 1997.

ADDRESSES: Comments should be sent to Supervisor, Pennsylvania Field Office, U.S. Fish and Wildlife Service, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801. The public hearing will be held in the auditorium of the Oley High School, 17 Jefferson Street, Oley, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael McCarthy at the above field office address (814/234-4090; facsimile 814/234-0748).