

Dated: January 10, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05-1698 Filed 1-31-05; 8:45 am]

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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 on a Petition To List a Karst Meshweaver, *Cicurina cueva*, as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day 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 list a karst meshweaver (spider), *Cicurina cueva* (no common name), under the Endangered Species Act of 1973, as amended (Act) with critical habitat. We find that the petition presented substantial scientific and commercial data indicating that listing *Cicurina cueva* may be warranted. Therefore, we are initiating a status review to determine if listing the species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: The administrative finding announced in this document was made on January 26, 2005. To be considered in the 12-month finding for this petition, comments and information should be submitted to us by May 15, 2005.

ADDRESSES: Data, information, comments, or questions concerning this petition and our finding should be submitted to the Field Supervisor, Austin Ecological Services Office, 10711 Burnet Rd., Suite 200, Austin, Texas, 78758. The petition, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Pine, Supervisor, Austin Ecological Services Field Office (telephone 512-490-0057 and facsimile 512-490-0974).

SUPPLEMENTARY INFORMATION:

Public Information Solicited

When we make a finding that substantial information exists to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial data, we are soliciting information on *Cicurina cueva*. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the status of *Cicurina cueva*. We are seeking information regarding the species' historic and current status and distribution, biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat.

If you wish to comment or provide information, you may submit your comments and materials concerning this finding to the Field Supervisor (*see ADDRESSES* section above). Our practice is to make comments and materials provided, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

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 we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial data indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of

this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated, under our internal candidate assessment process.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). This finding summarizes information included in the petition and information available to us at the time of the petition review. Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the "substantial information" threshold.

We do not conduct additional research at this point, nor do we subject the petition to rigorous critical review. Rather, as the Act and regulations direct, in coming to a 90-day finding, we accept the petitioner's sources and characterizations of the information unless we have specific information to the contrary.

Our finding considers whether the petition states a reasonable case for listing on its face. Thus, our finding expresses no view as to the ultimate issue of whether the species should be listed. We reach a conclusion on that issue only after a more thorough review of the species' status. In that review, which will take approximately 9 more months, we will perform a rigorous, critical analysis of the best available scientific and commercial data, not just the information in the petition. We will ensure that the data used to make our determination as to the status of the species is consistent with the Act and Information Quality Act.

On July 8, 2003, we received a petition requesting that we list *Cicurina cueva* (no common name) as an endangered species with critical habitat. The petition, submitted by the Save Our Springs Alliance (SOSA), Save Barton Creek Association, and Austin Regional Group of the Sierra Club, was clearly identified as a petition for a rule, and contained the names, signatures, and addresses of people representing the requesting parties. Included in the petition was supporting information

regarding the species' taxonomy and ecology, historic and current distribution, present status, and potential causes of decline. We acknowledged the receipt of the petition in a letter to Mr. Colin Clark and Dr. Mark Kirkpatrick, dated September 22, 2003. In this letter, we also advised the petitioners that because of staff and budget limitations, we had developed a Listing Priority Guidance document that was published in the **Federal Register** on October 22, 1999 (64 FR 57114). In that guidance, processing of petitions is classified as a "Priority 4" activity, behind emergency listing (Priority 1), processing final decisions on proposed listing (Priority 2), and resolving the status of candidate species (Priority 3). We also stated in that letter that we did not have funds available to process a petition finding for *Cicurina cueva*.

On December 22, 2003, SOSA sent us a Notice of Intent to sue for violating the Act by failing to make a timely 90-day finding on the petition to list *Cicurina cueva*. On May 25, 2004, SOSA filed a complaint against the Secretary of the Interior and the U.S. Fish and Wildlife Service for failure to make a 90-day petition finding under section 4 of the Act for *Cicurina cueva*. In our response to Plaintiff's motion for summary judgment on October 15, 2004, we informed the court that, based on current funding and workload projections, we believed that we could complete a 90-day finding by January 20, 2005, and if we determined that the 90-day finding was that the petition provided substantial scientific and commercial data, we could make a 12-month warranted or not warranted finding by December 8, 2005. This notice constitutes our 90-day finding on whether the petition provided substantial information indicating that listing *Cicurina cueva* may be warranted.

Species Information

Cicurina cueva is a member of the family Dictynidae, and a member of the subgenus *Cicurella* that was first described by Gertsch (1992). Members of this subgenus are mostly small forms derived from eight-eyed spiders that are progressively losing or have lost their eyes (Gertsch 1992). The majority of the eyeless *Cicurina* are known only from the Edwards Plateau region in central Texas and are obligate karst-dwelling species referred to as troglobites. Troglobites are animals restricted to the subterranean environment and which typically exhibit morphological adaptations to their cave environments, such as elongated appendages and loss

or reduction of eyes and pigment (Veni 1995).

Gertsch (1992) described *Cicurina cueva* using adult female specimens collected from Cave X, Travis County, Texas, in 1962 by Bell and Woolsey. Adults are 5.4 millimeters (mm) (0.2 inches (in.)) long and unpigmented. Positive identification of this species currently requires examination of adult female specimens, which are distinguishable from other adult female eyeless *Cicurina* spiders by their reproductive organs (Gertsch 1992).

This eyeless, troglobitic spider is believed to only inhabit caves or other geological features in rocks known as karst. Troglobites are species that are restricted to the subterranean environment and which usually exhibit morphological adaptations to that environment, for example elongated appendages and loss or reduction of eyes and pigment. The term "karst" refers to a type of terrain that is formed by the slow dissolution of calcium carbonate from limestone bedrock by mildly acidic groundwater. This process creates numerous cave openings, cracks, fissures, fractures, and sinkholes, and the bedrock resembles a honeycomb.

The primary habitat requirements of troglobitic invertebrate species, such as *Cicurina cueva* include: (1) Subterranean spaces in karst rocks with stable temperatures, high humidity (near saturation), and suitable substrates (for example, spaces between and underneath rocks suitable for foraging and sheltering) (Barr 1968; Mitchell 1971a); and (2) a healthy surface community of native plants and animals that provide nutrient input and, in the case of native plants, act to buffer the karst ecosystem from adverse effects (for example, invasions of nonnative species, contaminants, and fluctuations in temperature and humidity) (Biological Advisory Team 1990; Veni 1988; Elliott 1994a; Helf, *in litt.* 2002; and Porter *et al.* 1988).

Troglobites require stable temperatures and constant, high humidity (Barr 1968; Mitchell 1971) because they are vulnerable to desiccation in drier habitats (Howarth 1983), or cannot detect and cope with more extreme temperatures (Mitchell 1971). Temperatures in caves typically remain at the average annual surface temperature, with little variation (Howarth 1983; Dunlap 1995). Relative humidity is typically near 100 percent in caves that support troglobitic invertebrates (Elliott and Reddell 1989). During temperature extremes, troglobites may retreat into small interstitial spaces (human-inaccessible) connected to a cave, where the physical

environment provides the required humidity and temperature levels (Howarth 1983), and may spend the majority of their time in such retreats, only leaving them to forage in the larger cave passages (Howarth 1987).

Spiders in caves act as predators (Gertsch 1992). *Cicurina* sp. has been seen preying on immature *Speodesmus* sp. millipedes (Reddell 1994). Since sunlight is either absent or present in extremely low levels in caves, most karst ecosystems depend on nutrients derived from the surface either by organic material brought in by animals, washed in, or deposited through root masses or through feces, eggs, and carcasses of troglonexes (species that regularly inhabit caves for refuge, but return to the surface to feed) and troglaphiles (species that may complete their life cycle in the cave, but may also be found on the surface) (Barr 1968; Poulson and White 1969; Howarth 1983; Culver 1986). Primary sources of nutrients in cave ecosystems include leaf litter, cave crickets, small mammals, and other vertebrates that defecate or die in the cave.

The conservation of troglobitic species depends on a viable karst ecosystem that protects the cave entrance and footprint, the surface and subsurface drainage basins associated with the cave, interstitial spaces or conduits associated with the cave, and a viable surface animal and plant community for nutrient input. Surface vegetation acts as a buffer for the subsurface environment against drastic changes in the temperature and moisture regime and serves to filter pollutants before they enter the karst system (Biological Advisory Team 1990; Veni 1988). In some cases, healthy native plant communities also help control certain exotic species (such as fire ants) (Porter *et al.* 1988) that may compete with or prey upon the listed species and other species (such as cave crickets) that are important nutrient contributors (Elliott 1994a; Helf, *in litt.* 2002). Population sizes of troglobitic invertebrates are typically low, with most species known from only a few specimens (Culver *et al.* 2000), making them difficult to detect in the cave and making it very difficult to determine trends in population size. *Cicurina cueva* is currently known from two caves in southern Travis County, Texas: Cave X and Flint Ridge Cave.

Flint Ridge Cave is located on property owned by the City of Austin at the southern edge of Travis County, Texas, in the recharge zone of the Barton Springs segment of the Edwards Aquifer. It is the fifth longest and second deepest cave documented in

Travis County (Russell 1996). The cave has a surveyed length of 316.4-meters (m) (1,038-feet (ft)) (Jenkins and Russell 1999) and depth of 47-m (154-ft) (Russell 1996). Cave X is located on the site of the Regents School in southwest Austin, Texas.

While currently known from two caves, the species may occur in other caves in southern Travis County. According to James Reddell, Texas Memorial Museum (*in litt.* Service files, August 12, 2003) immature, blind *Cicurina* sp. have been collected from Blowing Sink, Driskill Cave, Cave Y, and Irelands' Cave, and these species may be *C. cueva*. However, he states that these specimens could also be one of two other blind *Cicurina* species found in the area and that a taxonomic review of these populations in south Austin is necessary to determine the status and range of blind *Cicurina* sp. in southern Travis County.

Dr. Marshall Hedin at San Diego State University is currently under contract with the Service to develop genetic assessment techniques for definitive species-level identification of immature specimens of blind *Cicurina* spiders in Travis County, Texas. Cooperative efforts are also underway by various parties to collect *Cicurina* specimens from various locations in an attempt to find additional locations of *Cicurina cueva*.

Summary of Factors Affecting the Species

Under section 4(a) of the Act, we may list a species on the basis of any of the five factors, as follows: Factor (A) the present or threatened destruction, modification, or curtailment of its habitat or range; Factor (B) overutilization for commercial, recreational, scientific, or educational purposes; Factor (C) disease or predation; Factor (D) the inadequacy of existing regulatory mechanisms; and Factor (E) other natural or manmade factors affecting its continued existence. The petition contends that factors A, C, D, and E are applicable to *Cicurina cueva* (see below). A brief discussion of how each of the listing factors applies to *Cicurina cueva* follows.

Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Cicurina cueva is currently known to exist in two caves, Cave X and Flint Ridge Cave, located in southern Travis County. The petition cites Reddell (1994) as indicating that all troglobitic species with a limited distribution in the area from the greater Austin area to San Antonio are highly likely to be

endangered. The petition also refers to "many precedents for giving endangered species listing to species with similar biology (and facing similar threats to extinction) in the Austin area." As discussed in the final rules listing seven karst invertebrate species as endangered in Travis and Williamson Counties, Texas, and nine in Bexar County, Texas, the continuing expansion of the human population in karst terrain constitutes the primary threat to karst species in Central Texas through: (1) Destruction or deterioration of habitat by construction; (2) filling of caves and karst features and loss of permeable cover; (3) contamination from septic effluent, sewer leaks, runoff, pesticides, and other sources; (4) exotic species, especially nonnative fire ants (*Solenopsis invicta*); and (5) vandalism (USFWS 1994; 2000).

Flint Ridge Cave is located on the approximately 100-ha (300-ac) Tabor Tract, purchased by the City of Austin under the Proposition 2 watershed protection program. The cave is hydrologically significant, draining a relatively large area of runoff into the Edwards Aquifer (Veni 2000).

The petition states that the proposed construction and operation of State Highway (SH) 45 South threatens the survival of *Cicurina cueva*. The petition describes possible roadway impacts from increased sedimentation, blasting, petrochemical contamination, and herbicide and pesticide use for right-of-way maintenance. The petition also refers to another case where habitat for the endangered cave spider *Neoleptoneta myopica* may be threatened by the cave's proximity to a new highway (Elliot and Reddell 1989). In a letter to the Service dated August 6, 2003, the Texas Department of Transportation (Texas DOT) stated they have "never considered blasting for this project, it is not necessary and will not be allowed."

The petition states that Flint Ridge Cave is being negatively affected by SH 45 South prior to highway construction. It states that during pre-construction activities for SH 45 South, a contractor for the Texas DOT excavated a soil sampling pit within 30.5-m (100-ft) of the entrance to Flint Ridge Cave on City of Austin property against the expressed wishes of the City (cited in the petition as William Conrad, pers. comm., 2003).

In 1998, Travis County acquired an easement on the Tabor Tract as right-of-way for the construction and operation of SH 45 South, which will connect two major roadways, Interstate 35 and MOPAC. While the exact alignment of the roadway within the acquired right-of-way has not yet been determined, the

entrance to Flint Ridge Cave is about 30-m (100-ft) down-gradient of the right-of-way, which also overlies a portion of the cave's footprint (Mike Walker, Texas DOT, pers. comm. August 6, 2003). A significant portion of the cave's extensive surface drainage area is bisected by the right-of-way for the proposed SH 45 South project. Veni (2000) delineated an approximately 16-ha (40-ac) surface drainage area associated with the cave. However, recent field surveys by the City of Austin indicate that the surface drainage area associated with Flint Ridge Cave could be approximately 22-ha (54-ac) (Nico Hauwert, City of Austin, pers. comm., August 13, 2003). The right-of-way also overlies an approximately 6.9-ha (17-ac) subsurface drainage basin associated with the cave as estimated by Veni (2000).

The petition indicates that there are no "best management practices" that could be proposed for use that would be 100 percent efficient at removing all contaminants and state that "contamination of cave sediments is inevitable, and leaks or spills will be an ever present risk." Information in our files indicates that any runoff not diverted away from the cave or which leaks or spills past diversion structures has the possibility of introducing potentially significant levels of contaminations that may harm the quality of groundwater in the Edwards Aquifer and the Flint Ridge Cave ecosystem (Veni 2000). The petition further states that "best management practices" alter the hydrological regime of their drainage basins, so the delicate balance of humidity and moisture in the cave would be threatened." The petition indicates that because cave-adapted species require high humidity, alteration of the hydrologic regime may result in decreased humidity in the cave which may impact these species, including *Cicurina cueva*.

The petition also describes possible threats to *Cicurina cueva* in Cave X. The petition states that the Regent's School has submitted a development plan to the City of Austin for construction of buildings, expansion of a parking lot, and expansion of a water quality pond. It further states that the habitat in Cave X may presently be degraded and may face further degradation due to the minimal buffer between the cave entrance and existing development, a road that goes over the cave, and plans for further development. There is a fence about 18-m (20-yards) from the gated cave entrance between the Regents' School property and a residential subdivision (cited in petition as Russell, pers. comm., 2003).

However, information in our files indicates that in November 1999, as part of an agreement with the City of Austin to protect recharge to the Edwards Aquifer, the Regents School established two legally-recorded setbacks associated with the cave, an approximately 0.61-ha (1.5-ac) area around the cave entrance and an approximately 1-ha (3-ac) area containing the majority of the cave's footprint. As noted in factor D below, the agreement between the City of Austin and the Regents School was implemented primarily for the protection of the federally-listed Barton Springs salamander (*Eurycea sosorum*), which is dependent on the Edwards Aquifer, and may not adequately protect the integrity of the cave environment for long-term conservation of *Cicurina cueva* and other rare troglitic species. The setback areas do not include the extent of the surface drainage area associated with Cave X. The extent of the groundwater (subsurface) drainage basin associated with the cave has not been determined, and, therefore, it is uncertain whether or not it is contained within the set-back areas. Both set-back areas are adjacent to existing development and are separated by a one-lane paved road that overlies a portion of the cave footprint. According to the legally-recorded restrictive covenant for the property, this road is only accessible to emergency vehicles and water quality pond maintenance crews. Cave crickets have been found foraging within 50-m (164-ft) of and up to 95-m (311-ft) from caves and other karst features in Central Texas (Elliott 1994; Steve Taylor, Illinois Natural History Survey, pers. comm., 2002). The foraging area around the cave entrance has been largely reduced to the 0.61-ha (1.5-ac) set-back area, which is adjacent to a subdivision on one side and a one-lane road on the other. The lot lines of this subdivision lie less than 10-m (40-ft) from the cave entrance. A portion of this 10-m (33-ft) area also serves as a utility easement developed with utility poles, and water and wastewater lines. The 1-ha (3-ac) setback area allows for a larger foraging area for cave crickets accessing the cave through other karst features. The school's future plans include construction of four (the petition said three) new buildings, all located adjacent to one of the cave's two setback areas (September 5, 2003, meeting notes in Service's files).

Information in our files indicates that surface drainage to Cave X is generally toward the southeast, with some drainage coming from the Travis County Subdivision (Nico Hauwert, City of Austin, pers. comm., August 13, 2003).

The natural drainage pattern may have been altered due to the construction of the road, which was constructed at a higher elevation than the cave entrance and the construction of the subdivision (Nico Hauwert and Mark Sanders, City of Austin, pers. comm., August 13, 2003).

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition did not provide any information pertaining to Factor B. Information in our files indicates this species is of little interest in the insect trade or to amateur collectors. They are collected occasionally by scientists conducting studies of cave fauna. The City of Austin, who owns and manages Flint Ridge Cave, limits the access into the cave to research personnel. The Regents School, which owns and manages Cave X, occasionally allows fire department personnel to access the cave to conduct cave rescue training. Access for recreational caving and educational purposes is prohibited in both Flint Ridge Cave and Cave X.

Factor C: Disease or Predation

The petition identifies imported fire ants (*Solenopsis invicta*) as a threat to *Cicurina cueva*. The petition says this fire ant, which was introduced to the southeastern United States from Brazil, started colonizing karst areas of Central Texas in the late 1980s (Elliott 1993). Invasion of imported fire ants causes devastating and long-lasting impacts on arthropod species and threatens their biodiversity (Porter and Savignano 1990). Increases in imported fire ants have led to 40% reduction in arthropod species in some instances. Imported fire ants will consume a wide variety of plants and animals (Vinson and Sorensen 1986).

Information in our files indicates that, in addition to preying on cave invertebrate species, including cave crickets, fire ants may compete with cave crickets for food (Elliott 1994; Helf *in litt.* 2002). Helf (*in litt.* 2002) states that competition for food between fire ants and cave crickets (*Ceuthophilus secretus*) may be a more important interaction between these species than predation. The presence of fire ants in and around karst areas could have a drastic detrimental effect on the karst ecosystem through loss of or reduction in both surface and subsurface species that are critical links in the food chain. The invasion of fire ants is known to be aided by "any disturbance that clears a site of heavy vegetation and disrupts the native ant community" (Porter *et al.* 1988).

The petition indicates that proposed SH 45 South would result in invasion of fire ants into habitat of *Cicurina cueva* in Flint Ridge Cave because construction of SH 45 South will disturb soil and vegetation near the entrance to the cave, creating conditions that favor fire ant invasion. The petition also states that after construction, State Highway 45 South and its shoulders and right-of-way will contribute to fire ant habitat because the land is disturbed and there is a steady supply of food from litter thrown from cars and insects killed by cars.

The petition also says existence of a residential subdivision and a school near Cave X increases the probability of fire ant invasion because fire ants are attracted by disturbance of natural vegetation, food debris, trash, and electrical lines, and that cave setbacks at Cave X on the Regents School site are insufficient to stop fire ant infestation.

Factor D: The Inadequacy of Existing Regulatory Mechanisms

The petition states "existing rules and regulations enacted by the City of Austin, Travis County, and the State of Texas are inadequate to protect *Cicurina cueva*. State guidelines allow for plugging or filling of caves and karst features, which can significantly alter and disturb drainage and recharge patterns that affect temperature, humidity, and food webs of cave ecosystems." The Texas Commission on Environmental Quality (formerly Texas Natural Resources Conservation Commission) does not require surveys for invertebrate species in karst assessments. The petition states that "Hundreds of potential karst features have been identified in the right-of-way for State Highway 45 South, including Flint Ridge Cave's drainage basin. Many of these karst features will be paved over, possibly blocking recharge to Flint Ridge Cave."

An Incidental Take Permit issued pursuant to section 10(a)(1)(B) of the Act was issued to the City of Austin and Travis County on May 2, 1996. Both Cave X and Flint Ridge Cave are listed on the permit and the associated Balcones Canyonlands Conservation Plan (BCCP) as caves containing species of concern, including *Cicurina cueva* (a covered species under this permit). Under the permit, the City of Austin and Travis County are required to acquire and manage Cave X and Flint Ridge Cave, or implement formal management agreements adequate to preserve the environmental integrity of these caves, to get authorization for incidental take of this species in other caves if this species is federally-listed in the future.

However, in their 2000, 2001, and 2002 annual permit reports, the City of Austin/Travis County recognize that many buffer areas associated with caves currently "protected" under the BCCP are not large enough to adequately protect the caves and do not have adequate buffer areas surrounding the caves to meet species needs, as indicated by information assembled by the Service in 2001 (Travis County and City of Austin 2000; 2001; 2002). Take of this species is not prohibited since the species is not listed.

The petition cites the 2000 BCCP Annual Report as saying the status of Cave X is described as "unknown, new agreement not working smoothly yet." The petition also says that per the Texas Cave Management Association, the agreement is inadequate to protect the cave (cited in petition as Julie Jenkins, pers. comm., 2003). The 2001 BCCP Annual Report states that because species of concern, such as *Cicurina cueva*, are not federally listed as endangered, many of the caves supporting species of concern are severely threatened.

In addition to the information in the petition, information in our files indicates the City of Austin entered into an agreement with the Regents School in November 1999, establishing two legally recorded setbacks associated with Cave X: an approximately 0.61-ha (1.5-ac) area around the cave entrance and an approximately 1-ha (3-ac) area containing the majority of the cave's footprint. Under the agreement, the Regents School was allowed to construct an approximately one-lane paved road accessible only to emergency vehicles and water quality pond maintenance crews over a portion of the cave's footprint. The setback areas do not include the extent of the surface drainage area associated with Cave X. The extent of the groundwater (subsurface) drainage basin associated with the cave has not been determined, and, therefore, it is uncertain whether or not it is contained within the set-back areas.

Under the agreement, the Regents School is responsible for monthly inspections of the setback areas, which includes looking for evidence of tampering or vandalism, removing any accumulated trash or debris, or presence of potentially toxic materials. They are also responsible for vegetation management and biannual fire ant control. The Regents School gated the cave and fenced a small area around the cave entrance to protect it from unauthorized trespassing and vandalism, but no additional management activities have been

conducted to date (Charles Evans, Headmaster, Regents School, pers. comm., August 15, 2003). The agreement between the City of Austin and the Regents School was implemented primarily for the protection of the federally-listed Barton Springs salamander (*Eurycea sosorum*), which is dependent on the Edwards Aquifer, and may not adequately protect the integrity of the cave environment for long-term conservation of *Cicurina cueva* and other rare troglobitic species.

Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence

The petition contends that the following three features of this species make it vulnerable to extinction: (1) The narrowly limited distribution and small population size of *Cicurina cueva* make it more vulnerable to alteration of habitat, loss of prey species, and failure of reproduction; (2) the dissected and extremely faulted geology of the Balcones Fault Zone makes travel between caves infeasible, therefore dispersal opportunities and habitat selection are not available to this species, resulting in small isolated populations; and, (3) the species is reliant on stable environmental conditions. The petition points out that troglobites have developed in unique cave ecosystems and require high humidity and stable temperatures (Service 1994), and the petition further states that "Troglobites evolved over millions of years in secluded, stable habitats."

Information in our files also indicates that many caves in the Austin metropolitan area have been subject to vandalism and trash dumping. Cave X is protected by an animal-friendly cave gate. The cave entrance area is also enclosed within a 1.8-m (6-ft) chain-linked security fence. The City of Austin has gated the entrance to Flint Ridge Cave (Dr. Kevin Thuesen, pers. comm. to Service, 2004). The City of Austin's Tabor Tract, where Flint Ridge Cave is located, is protected by five-strand barbed-wire fencing and "No Trespassing" signs.

Finding

We have reviewed the petition, the literature cited in the petition, and information in our files. On the basis of our review, we find that the petition presents substantial scientific and commercial information indicating that listing *Cicurina cueva* may be warranted.

The petition also requested that we emergency list *Cicurina cueva*. We have reviewed the available information to

determine if the existing and foreseeable threats pose immediate and urgent risks to the species' continued existence. According to our Endangered Species Listing Handbook (March 1994), "Expected losses during the normal listing process that would risk the continued existence of the entire listed species are grounds for an emergency rule. The purpose of the emergency rule provision of the Act is to prevent species from becoming extinct by affording them immediate protection while the normal rulemaking procedures are being followed." At this time, we are working with the property owners of the two known locations to determine what conservation measures are needed to protect the species at their sites. Texas DOT and the Regents School have indicated an interest in avoiding or minimizing impacts to the species. Texas DOT is working on a redesign of the project to a six-lane rather than a four-lane highway and expects to submit a Biological Evaluation to the Service in October or November 2005 (Mike Walker, pers. comm. to the Service, 2004). In comments hand-delivered to the Service on August 6, 2003, Texas DOT said "it is not possible to award any construction contracts until all coordination with resource agencies, including the [Service], has been completed." The Regents School of Austin owns Cave X, and they are working on a management plan and a conservation agreement to provide conservation measures that would protect *Cicurina cueva* on their property.

Based on the willingness of these two parties to work with us to identify conservation measures that will provide for the long-term survival of the species at the two known sites and the project schedule provided to us by Texas DOT, we believe the available information indicates that an emergency listing action is not necessary at this time. This decision is based on our understanding of the immediacy of potential threats to *Cicurina cueva* at its two known locations. However, if at any time we determine that emergency listing of *Cicurina cueva* is warranted, we will seek to initiate the appropriate protective measures.

The petitioners also requested that critical habitat be designated for this species. We always consider the need for critical habitat designation when listing species. If we determine in our 12-month finding that listing *Cicurina cueva* is warranted, we will address the designation of critical habitat in the subsequent proposed rule.

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor (see **ADDRESSES** section above).

Author

The primary authors of this document are staff at the Austin Ecological Services Office (see **ADDRESSES** section above).

Authority

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

Dated: January 26, 2005.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 05-1765 Filed 1-31-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 012405B]

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a series of public hearings to receive public comments on "Amendment Number 13 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters with Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis."

DATES: Written comments must be received by the Council on or before March 4, 2005. The meetings will be held in February 2005 (see **SUPPLEMENTARY INFORMATION** for specific dates and times).

ADDRESSES: The hearings will be held in Alabama, Florida, Louisiana, Mississippi, and Texas (see **SUPPLEMENTARY INFORMATION** for specific locations).

Comments may be submitted by any of the following methods:

- E-mail: gulfcouncil@gulfcouncil.org.

- Federal e-Rulemaking: <http://www.regulations.gov>.

- Mail: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619.

Copies of Amendment 13 to the Shrimp FMP can be obtained from the Gulf of Mexico Fishery Management Council.

FOR FURTHER INFORMATION CONTACT:

Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will hold a series of public hearings to receive public comments on "Amendment Number 13 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters with Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis." Amendment 13 contains alternatives to (1) establish a separate vessel permit for the royal red shrimp fishery or an endorsement to the existing federal shrimp vessel permit (Action 1); (2) define MSY, OY, the overfishing threshold, and the overfished condition for royal red and penaeid shrimp stocks in the Gulf (Actions 2 through 7); (3) establish bycatch reporting methodologies and improve collection of shrimping effort data in the EEZ through the use of logbooks, electronic logbooks, and observers (Action 8); (4) require completion of a Gulf Shrimp Vessel and Gear Characterization Form by at least a subset of shrimp vessel permit holders (Action 9); (5) establish a moratorium on the issuance of commercial shrimp vessel permits (Action 10); and (6) require reporting and certification of landings during a moratorium (Action 11). For each action, a "No Action" alternative may also be considered. The Council is soliciting public comment on alternatives under each of these potential actions, and for other alternatives, that should be considered by the Council. The Council is soliciting public comment on these issues through the public hearings, by mail and by e-mail; and must be received by the Council on or before March 4, 2005.

The Gulf of Mexico Fishery Management Council is one of the eight regional fishery management councils that were established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976. The Gulf of Mexico Fishery Management Council

prepares fishery management plans that are designed to manage fishery resources in the Exclusive Economic Zone (EEZ) of the U.S. Gulf of Mexico.

Hearing Dates, Times, and Locations

The hearings will begin at 7 p.m. and end no later than 10 p.m. on the following dates and at the locations specified below:

Monday, February 14, 2005, Holiday Inn I-10, 5465 Highway 90 West, Mobile, AL 36619; 866-436-4329;

Tuesday, February 15, 2005, Mississippi Department of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; 228-374-5000;

Tuesday, February 15, 2005, DoubleTree Grand Key Resort, 3990 South Roosevelt Boulevard, Key West, FL 33040; 888-310-1540;

Wednesday, February 16, 2005, LSU Agricultural Center Extension Office, 1105 West Port Street, Abbeville, LA 70510; 337-898-4335;

Thursday, February 17, 2005, Ramada Inn Houma, 1400 West Tunnel Boulevard, Houma, LA 70360; 985-879-4871;

Thursday, February 17, 2005, DoubleTree Guest Suites Tampa Bay, 3050 North Rocky Point Drive, Tampa, FL 33607; 813-888-8800;

Monday, February 21, 2005, Brownsville Events Center, 1 Events Center Boulevard, Brownsville, TX 78526; 956-554-0700;

Tuesday, February 22, 2005, Palacios Rec Center, 2401 Perryman, Palacios, TX 77465; 361-972-2387;

Wednesday, February 23, 2005, San Luis Resort, 5222 Seawall Boulevard, Galveston Island, TX 77651; 409-744-1500; and

Thursday, February 24, 2005, New Orleans Airport Ramada Inn & Suites, 110 James Drive East, St. Rose, LA 70087; 504-466-1355.

Special Accommodations

The hearings are open to the public and are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council office (see **ADDRESSES**) by February 7, 2005.

Dated: January 27, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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