Dated: June 26, 2007.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. E7–13060 Filed 7–3–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–2651; MB Docket No. 05–191; RM–11243]

Radio Broadcasting Services; Elberton and Union Point, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: In response to a *Notice of Proposed Rule Making* (''Notice''), this *Report and Order* dismisses a rulemaking petition requesting that Channel 286A, FM Station WEHR, Elberton, Georgia, be upgraded to Channel 286C2 and reallotted to Union Point, Georgia, and the license of Station WEHR be modified accordingly. Georgia-Carolina Radiocasting Company, LLC (''GCR''), the licensee of Station WEHR, requested Commission approval for the withdrawal of its underlying Petition for Rule Making for MB Docket No. 05–191. GCR filed a declaration that neither it nor any of its principals has been offered or received any consideration in connection with the withdrawal of its Petition for Rule Making in this proceeding.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 05–191, adopted June 13, 2007, and released June 15, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this *Report and Order* to GAO pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the proposed rule is dismissed.)

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–12860 Filed 7–3–07; 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 on a Petition To List the Casey's June Beetle (Dinacoma caseyi) as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list Casey's June beetle (*Dinacoma caseyi*) as endangered under the Endangered Species Act of 1973, as amended (Act). The petition also asked that critical habitat be designated for the species. After review of all available scientific and commercial information, we find that listing is warranted. Currently, however, listing of Casey's June beetle is precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. Upon publication of this 12-month petition finding, Casey's June beetle will be added to our candidate species list. We will develop a proposed rule to list this species as our priorities allow. Any determination on critical habitat will be made during development of the proposed listing rule.

DATES: The finding announced in this document was made on July 5, 2007.

ADDRESSES: Supporting documents for this finding are available for inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92011. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**) (telephone 760–431–9440; facsimile 760–431–5901). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 et seq.) requires that, for any petition to revise the List of Endangered and Threatened Wildlife or the List of Endangered and Threatened Plants that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of our receipt of the petition on whether the petitioned action is: (a) Not warranted, or (b) warranted, or (c) warranted but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants. Such 12-month findings are to be published promptly in the **Federal Register**. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded shall be treated as though resubmitted on the date of such finding, and requiring a subsequent finding to be made within 12 months.

Previous Federal Action

On May 12, 2004, we received a petition, dated May 11, 2004, from David H. Wright, Ph.D.; the Center for Biological Diversity; and the Sierra Club requesting the emergency listing of Casey's June beetle (*Dinacoma caseyi*) as endangered in accordance with section 4 of the Act. On October 4, 2005, the Center for Biological Diversity filed a complaint against us in the U.S. District Court for the Central District of California challenging our failure to make the required 90-day and, if appropriate, 12-month finding on their petition to emergency list Casey's June beetle under section 4 of the Act. We reached a settlement agreement with the plaintiffs on March 28, 2006, in which we agreed to submit to the **Federal Register** a 90-day finding by July 27, 2006, and to complete and submit to the **Federal Register**, if a substantial finding is made, a 12-month finding by June 30, 2007. On August 8, 2006, we published a 90-day petition finding (71 FR 44960) in which we concluded that emergency

listing was not necessary, but that the petition provided substantial information indicating that listing of Casey's June beetle may be warranted, and we initiated a status review. This notice constitutes the 12-month finding on the May 12, 2004, petition to list Casey's June beetle as endangered.

Taxonomy

Casey's June beetle belongs to the scarab family (Scarabidae). The genus *Dinacoma* includes two described species, *D. caseyi* and *D. marginata* (Blaisdell 1930, pp. 171–176). Delbert La Rue, a researcher experienced with the genus *Dinacoma* and a taxonomic expert stated, ''*Dinacoma caseyi* is a distinct species morphologically and comprises its own species group—the *caseyi* complex—the other [species group] being the *marginata* complex which includes the bulk/remainder of the genus'' (La Rue 2006, p. 1). The Casey's June beetle was first collected in the City of Palm Springs, California, in 1916, and was later described by Blaisdell (1930, pp. 174–176) based on male specimens. This species measures 0.55 to 0.71 inches (in) (1.4 to 1.8 centimeters (cm)) long, with dusty brown or whitish coloring, and brown and cream longitudinal stripes on the elytra (wing covers and back).

Recently, entomologists discovered two apparently new species or subspecies of *Dinacoma*, collected respectively from near the city of Hemet, California, and in the northwest portion of Joshua Tree National Park, California, at Covington Flats (La Rue 2006, p. 2). To date, these specimens of *Dinacoma* have not been formally described in the scientific literature, but expert evaluation places them in the other *Dinacoma* species group (*marginata* complex) (La Rue 2006, p.1). La Rue (2006, p. 2) stated that *Dinacoma caseyi* is the most morphologically divergent and distinct species in the genus. The new specimens collected from the Hemet area are paler than Casey's June beetle specimens and possess morphologically different genitalia (Anderson 2006a, p.1). Furthermore, the Little San Bernardino Mountains geographically isolate the new *Dinacoma* Joshua Tree population from all other known *Dinacoma* species.

Biology

Based on surveys conducted to assess the species' presence, both male and female Casey's June beetles emerge from underground burrows sometime between late March and early June, with abundance peaks generally occurring in April and May (Duff 1990, p. 3; Barrows 1998, p. 1). Females are always observed on the ground and are considered flightless (Duff 1990, p. 4; Frank Hovore and Associates 1995, p. 7; Hovore 2003, p. 3). La Rue (2006, p.1) stated that ''Female *Dinacoma* are very rare in collections. Females display an accentuated sexual dimorphism characterized by an enlarged abdomen, reduced legs and antennae, and metathoracic wing reduction and venation. These characters are likely adaptations to flightlessness and a fossorial biology.'' During the active flight season, males emerge from the ground and begin flying near dusk (Hovore 2003, p. 3). Males are reported to fly back and forth or crawl on the ground where a female beetle has been detected (Duff 1990, p. 3). Cornett (2003, p. 5) theorized that after emergence, females remain on the ground and release pheromones to attract flying males. After mating, females return to their burrows or dig a new burrow and deposit eggs. Excavations of adult emergence burrows revealed pupal exuviae (casings) at depths ranging from approximately 4 to 6 in (10 to 16 cm) (Frank Hovore and Associates 1995, p. 6).

The larval cycle for the species is likely 1 year, based on the absence of larvae (grubs) in burrows during the adult flight season (La Rue 2004, p. 1). The food source for Casey's June beetle larvae while underground is unknown, but other species of June beetle are known to eat ''plant roots or plant detritus and associated decay organisms'' (La Rue 2004, p.1). La Rue (2006, pp.1–2) stated, ''[Casey's June beetle] exhibits no specific host preferences, and larvae likely consume any available organic resources—including [layered organic debris]—encountered within the alluvial habitat.'' Specific host plant associations for Casey's June beetle are not known. Although visual surveys have detected a concentration of emergence burrows in the vicinity of a number of species of woody shrub in Palm Canyon Wash, this may be due to low soil disturbance by vehicles, foot traffic, and horses near woody vegetation (Hovore 2003, p. 3).

Habitat

La Rue (2006, p.1) stated that all *Dinacoma* populations are ecologically associated with alluvial sediments. Alluvial sediments occurring in or contiguous with coastal scrub, montane chaparral, and desert dry washes (ephemeral watercourses) are indicative of the *marginata* complex habitat, while bases of desert alluvial fans, and the broad, gently sloping, depositional surfaces formed at the base of the Santa Rosa mountain ranges in the dry Coachella Valley region by the overlapping of individual alluvial fans (bajada) are indicative of the *caseyi* complex habitat (La Rue 2006, p. 1).

Casey's June beetle is most commonly associated with Carsitas series soil (CdC), described by the United States Department of Agriculture (USDA) (USDA on-line GIS database, 2000) as gravelly sand on 0 to 9 percent slopes. This soil series is associated with alluvial fans, rather than areas of aeolian or windblown sand deposits. Hovore (2003, p. 2) described soils where Casey's June beetle occurs or occurred historically as, ''* * * almost entirely carsitas series, of a CdC type, typically gravelly sand, single grain, slightly effervescent, moderately alkaline (pH 8.4), loose, non-sticky, non-plastic, deposited on 0 to 9 percent slopes. On alluvial terraces and where they occur within washes, these soils show light braiding and some organic deposition, but [most years] do not receive scouring surface flows.'' Although Casey's June beetle has primarily been found on CdC soils, the beetle is also associated with Riverwash (RA), and possibly Carsitas cobbly sand (ChC), soils in the Palm Canyon Wash area (Anderson and Love 2007, p. 1). Its burrowing habit would suggest the Casey's June beetle needs soils that are not too rocky or compacted and difficult to burrow in.

Hovore (2003, p.11) and Cornett (2004, p. 14) hypothesized that upland habitats provide core refugia from which the species recolonizes wash habitat after intense flood scouring events (approximately every 10 years), and are required for long-term survival of the species. Most extant upland habitat in the range of Casey's June beetle has been developed as golf courses or suburban housing (Cornett 2004, p. 11). Although relatively high numbers of Casey's June beetles (70 individuals in the first 15 minutes, Powell 2003, p. 4; average 8.5 per night, Simonsen-Marchant and Marchant 2000, p. 5; 2001, p. 9) have been collected downstream from remaining upland habitat in Palm Canyon Wash, occupancy in this area is likely due to movement of sediment and larvae by water flow as hypothesized by Hovore (2003, p. 11). Occupied wash habitat downstream from all occupied upland habitats (from Smoke Tree Ranch to Gene Autry Trail, see distribution discussion below) is likely a long-term population ''sink'' for Casey's June beetle (only receiving female immigrants, not producing colonizers for upland habitat). Although wash habitat isolated from upland refugia may contribute relatively little to the

species' long-term survival under current circumstances, it is still important because it is apparently occupied by a relatively large proportion of the remaining population, and would be an important source of individuals for future reintroduction and augmentation activities.

With regard to current habitat conditions, Cornett (2004, p. 14) offered a hypothesis based on higher number of specimens collected or observed during surveys within the more developed areas compared to undeveloped areas within the gated Smoke Tree Ranch residential community (Smoke Tree Ranch). Cornett (2004, p. 14) hypothesized that the unique landscape of Smoke Tree Ranch may increase habitat quality of Casey's June beetle in this drier upland area with widely spaced homes, abundant native vegetation on vacant lots, and some irrigation. This hypothesis, if supported by future research, may hold the key to effective management for Casey's June beetle in remaining, less suitable upland habitat where the species may have been extirpated. Alternate hypotheses, such as increased collection sizes due to attraction of males to residential lights, should also be investigated. Considering Cornett's (2004, p. 14) above hypothesis, and the potential for high species density (however temporary) in Palm Canyon Wash, all remaining habitat areas with CdC or RA type soils in southern Palm Springs are considered important for species' conservation.

Range and Extant Distribution

Most locality information on Casey's June beetle specimens in collections specifies ''Palm Springs,'' or simply Riverside County (Duff 1990, p. 2; O'Brian 2007, p.1; Ratcliff 2007, p. 1; Wall 2007, p.1). Nineteen of 21 specimens in the Los Angeles County Natural History Museum (LACNHM; 1940 to 1989) were labeled as being from the city of Palm Springs. Other early collection records identify ''Palm Desert'' (''old record''; Duff 1990, p. 3), ''Indian Wells'' (2 specimens in the LACNHM from 1953), and ''Palm Canyon'' (''old record''; Duff 1990, p. 3), all in the western Coachella Valley. Duff (1990, p. 2) described two primary areas where the beetle was extant in Palm Springs, west of the city near Tahquitz Creek (''specific localities: Jct. Palm Canyon Drive and Tahquitz Way; Jct. Palm Canyon Drive and Sunny Dunes Road'') and south of the city near the intersection of Bogert Trail and South Palm Canyon Drive. Seven specimens in the LACNHM were labeled as having been collected near the intersection of Bogert Trail and South Palm Canyon Drive (1987, 1988, and 1989). The Bogert Trail/South Palm Canyon Drive collections were made within the Agua Caliente Tribe of Cahuilla Indians (Tribe) Reservation. Recently, numerous collections and observations have been made within Smoke Tree Ranch and other areas in, or adjacent to, Palm Canyon Wash south of Gene Autry Trail, in the City of Palm Springs. The Bogert Trail site and Smoke Tree Ranch have been commonly used as reference sites by surveyors (Duff 1990, p. 7; Hovore 1997a, p. 3; 1997b, p. 1; Barrows and Fisher 2000, p. 1; Cornett 2000, p. 9; Cornett 2003, p. 5; Hovore 2003, p. 4; Cornett 2004, p. 3). Hovore (Frank Hovore and Associates 1995, p. 3) stated that the Casey's June beetles collected by University of California-Long Beach (UCLB) students ''within the past 20 years'' were labeled ''Dead Indian Canyon'' (near the cities of Palm Desert and Indian Wells, south of Palm Springs); however, Hovore (2006b, p. 1) subsequently explained that this information is questionable due to incomplete specimen label information and contradictory information provided by the former UCLB curator. Because Palm Canyon (in Palm Springs) is joined by the smaller Murray, Andreas, and Wentworth Canyons, collectively referred to as the ''Indian Canyons,'' (for example, Barrows 1998, p. 1), we believe this may be the correct collection locality for the UCLB specimens.

The historical range of Casey's June beetle cannot be determined with any certainty, given the lack of specific locality information for many of the collection records. Frank Hovore and Associates (1995, p. 4) described the possible extent of the species' historical range as ''somewhere around Chino Canyon floodplain (or at most northwest to the Snow Creek drainage), south to around Indian Wells.'' Within this general geographic area from north to south of Palm Springs (Riverside County, California), the species is assumed to have occurred on alluvial fan bases flowing from the Santa Rosa Mountains, at or near the level contour line, where finer silts and sand are deposited. However, this purported range is ''based on inference and fragmentary data'' (Frank Hovore and Associates 1995, p. 4).

Given the lack of collection records, efforts have been made to determine the extant (remaining) distribution of Casey's June beetle in its purported historical range. Barrows and Fisher (2000, p.1) conducted trapping on two separate evenings in Dead Indian Canyon in Palm Desert, southeast of Palm Springs, but the species was not detected. The University of California–Riverside (UCR) conducted more than 10 years of year-round surveys for a variety of species, including Casey's June beetle, at the Boyd Deep Canyon Preserve in Palm Desert, California (also near Indian Wells, and including portions of Dead Indian Canyon). No Casey's June beetles were found during any of the UCR surveys (Anderson 2006a, p. 1). Although the May 11, 2004, petition references a ''Snow Creek'' collection site northwest of Palm Springs, we were not able to obtain any substantiating records for that location. A single-night survey conducted by Powell (2003, p. 1) near Snow Creek failed to find the species, although the beetle was confirmed to be active at Smoke Tree Ranch in Palm Springs at the time.

La Rue (2006, p. 1) has collected and worked extensively with *Dinacoma* spp. in southern California since the 1980s, but has not collected Casey's June beetle outside of its current known range in the City of Palm Springs. La Rue (2006, p. 2) stated:

> Many collectors, researchers, ecologists, and others * * * have surveyed for *D. caseyi* throughout the Coachella Valley for years without finding additional populations other than those still extant in and around Palm Springs. There are several factors that contribute to this isolation, a few being: (1) Topographically, the City of Palm Springs is protected from high wind events (dessication [sic] of necessary substrate) [by] the precipitous San Jacinto [Santa Rosa Mountains]; (2) the area where *D. caseyi* occurs in the City of Palm Springs receives a higher amount of annual precipitation because of its proximity to the base of the San Jacinto/Santa Rosa Mtns [Mountains]. Orographic lift [when an air mass is forced from low to higher elevations, it expands, cools, and can no longer hold moisture] will deplete most moisture from winter storms originating from the Pacific; what little remains falls in the Palm Springs area and rarely further into the Coachella Valley. Summer monsoonal patterns are insignificant. (3) As mentioned above, *Dinacoma* are restricted to alluvial sediments. Re: *D. caseyi*; these conditions only occur at the base of steep narrow canyons of the San Jacinto/Santa Rosa [Mountains].

Cornett (2004, p. 8) sampled more than 60 locations in Palm Springs to determine the current range of Casey's June beetle. Light traps were used to attract flying males and placed in relatively undisturbed flatlands likely to support Casey's June beetle. Traps were opened by 6:30 p.m. and remained open until at least 10 p.m. Eight traps were opened each evening, and each trapping station was used at least two times. To gauge trapping success, at least one trap was opened at Smoke Tree Ranch each

trapping session, where beetles have been reliably collected since occupancy was documented in 1998 (Barrows 1998, p. 1). Based on the survey results, Cornett (2004, p. 13), in agreement with Hovore (2003, p. 7), concluded that Casey's June beetle is currently restricted to southern Palm Springs in the vicinity of Palm Canyon and Palm Canyon Wash.

Despite recent attempts to document Casey's June beetle in areas throughout the purported historic range, all recent (1990s or later) Casey's June beetle collection locations are from sites near South Palm Canyon Drive, Bogert Trail, Smoke Tree Ranch, and portions of Palm Canyon Wash south of Gene Autry Trail in Palm Springs (Duff 1990, pp. 2–3; Simonsen-Marchant and Marchant 2000, p. 5 and 2001, p. 8; Hovore 2003, p. 7; Powell 2003, p. 1; Cornett 2000, p. 13 and 2004, p. 8; Yanega 2007, pp. 1–3). For example, one group of collectors associated with UCR who checked ''as many sites as possible'' for Casey's June beetle in Palm Springs, were apparently only able to collect specimens in the vicinity of Smoke Tree Ranch stables, adjacent to Palm Canyon Wash (Porcu 2003, p. 8). Localized distributions are typical for species of June beetles (superfamily Scarabaeoidea) with flightlessness in one or both sexes (Hovore 2006a, p. 1). We believe only one Casey's June beetle population remains, occupying the extant, contiguous habitat in southern Palm Springs.

Cornett (2004, p. 11) estimated the range of Casey's June beetle to cover approximately 800 acres (ac) (324 hectares (ha)). As discussed in our August 8, 2006, 90-day finding (71 FR 44960), based on our GIS mapping of Cornett's (2004, p. 13) distribution map, his estimated Casey's June beetle range was approximately 707 ac (286 ha) as opposed to approximately 800 ac (324 ha) (Cornett 2004, p. 11). To this we added another 51 ac (21 ha) of north Palm Canyon Wash between East Palm Canyon Drive and South Gene Autry Trail, resulting in an approximately 758-ac (307-ha) range for Casey's June beetle in the Palm Springs area (71 FR 44960). Subsequent analysis for this 12-month finding (see discussion below) indicates additional CdC and RA soils in Palm Canyon should also have been included in this range estimate. Because Cornett's (2004, p. 11) 800-ac (324-ha) range estimate included such large, peripheral, non-habitat features as the entire golf course between East Murray Canyon Drive and Bogert Trail, a more useful ''range'' description is the qualitative, habitat-based description given by Hovore (2003, p. 7): ''* * * from the lot at Bogert Trail and South Palm Canyon Drive east into, and across, Palm Canyon wash onto the upland terrace adjacent to the wash, and then downstream [northeast] within the wash and on the upland terrace deposits (CdC soils) through [Smoke Tree] Ranch to Highway 111, and then just within the wash through Seven Lakes Country Club to at least Gene Autry [Trail] * * *.'' For the remainder of this finding, our discussion of the species' current distribution will not consider a greater ''range,'' and will be limited to the amount of remaining undeveloped habitat (occupancy distribution) that does not include residential areas where soils have been graded, developed, or landscaped. Such areas are not currently habitable by the species.

To define the current distribution of extant Casey's June beetle habitat within our revised range description above, we used GIS soil data from the USDA (USDA on-line GIS database, 2000; CdC and RA soil series; see Habitat section above), 2005 satellite imagery, field surveys (Anderson 2006b, pp. 1–35), and collection data from Cornett (2000, p. 9; 2004, p. 8), Powell (2003, p. 1), Simonsen-Marchant and Marchant (2000, p. 5; 2001, p. 6), Barrows (1998, p. 1), and Hovore (2003, p. 7; 1997a, p. 2; 1997b, p. 4). All undeveloped CdC and RA soils within the area described above were considered extant habitat. To account for potential occupancy in undeveloped lots within the otherwise developed suburban housing area at Smoke Tree Ranch (Cornett 2004, p. 14; see Habitat section above), we included half the total area of the Smoke Tree Ranch development block (65 ac (26 ha)) in our extant habitat area estimate. Smoke Tree Ranch is the only suburban area within the distribution of Casey's June beetle that contains scattered undeveloped lots throughout the development. Our final analysis resulted in an estimate of 576 ac (233 ha) of extant undeveloped habitat in 2006 (Anderson and Love 2007, pp. 1–2). Extant habitat is limited to Palm Canyon Wash, Smoke Tree Ranch, and CdC soils in Palm Canyon south of East Murray Canyon Drive. Based on 1995 or more recent collection data (Cornett 2000, p. 9 and 2004, p. 8; Powell 2003, p. 1; Simonsen-Marchant and Marchant 2000, p. 3 and 2001, p 6; Barrows 1998, p. 1; Hovore 2003, p. 7 and 1997a p. 2 and 1997b, p. 4), and CdC or RA soils that were contiguous as recently as 1995 with habitat where Casey's June beetle was collected (Anderson and Love 2007, pp. 1–2), we consider all extant habitat within the species' distribution to be occupied or likely occupied.

Although recent surveys have not recorded Casey's June beetles in extant habitat west of South Palm Canyon Drive or south of Acanto Drive in Palm Springs (Barrows 1998, p. 1; Simonsen-Marchant and Marchant 2000, p. 5 and 2001, p. 6; Cornett 2004, pp. 8 and 13), low-density populations may be hard to detect. Barrows (1998, p. 1) reported observing numerous Casey's June beetle emergence holes ''* * * just beyond the entrance gate to the Indian Canyons, indicating with some probability their recent occurrence there.'' Hovore (1997a, p. 2) also reported ''a few'' potential Casey's June beetle emergence holes ''in a small CdC soil area along the toll road.'' Hovore (Frank Hovore and Associates 1995 p. 5; Hovore 1997a, p. 3 and 1997b, p. 4) also documented occupancy in currently undeveloped habitat west of South Palm Canyon Drive. Hovore (Frank Hovore and Associates 1995, p. 5) specifically described Casey's June beetle occupancy distribution on the west side of South Palm Canyon Drive as, ''* * * in a narrow strip along the west side of South Palm Canyon Drive from about the junction with Bogert Trail to [Acanto Drive], and extends only about 20–30 meters away from the roadway.''

Status and Trends

We do not have population estimates for the beetle or information showing decline in numbers. Surveys conducted for this species have been site-specific or primarily conducted to demonstrate presence or absence. For this reason, we focused our analysis of the decrease in the amount of extant habitat and the documented habitat loss over specific time periods.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations at 50 CFR 424 set forth procedures for adding species to the Federal List of Endangered and Threatened Wildlife. In making this finding, we summarize below information regarding the status and threats to this species in relation to the five factors in section 4(a)(1) of the Act. In making our 12-month finding, we considered all scientific and commercial information in our files, including information received during the comment period that ended October 10, 2006 (71 FR 44960).

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

We analyzed suburban development within southern Palm Springs from

2003 to 2007 to determine habitat impacts of completed and pending projects as cited in the petition and referenced in the August 8, 2006, 90-day finding (71 FR 44960). We were not able to identify all projects cited in the petition (and the 90-day finding), as the petitioners did not provide specific geographic descriptions, and cited acreages did not exactly match calculations in our most recent analysis. However, based on site visits and satellite imagery, we identified at least five projects that have removed or impacted occupied and likely occupied habitat, within the distribution described above, in the past 3 years: (1) The 39-ac (16-ha) Monte Sereno project north of Bogart Trail adjacent to Palm Canyon Wash (Tribal lands); (2) the 2-ac (1-ha) Desert Water Agency wells and pipeline project in the Smoke Tree Ranch development; (3) at least 7-ac (3-ha) of the Smoke Tree Ranch Cottages development (''Casitas'' development cited in the 90-day finding); (4) the 17-ac (7-ha) Smoketree Commons shopping area; and (5) the 34-ac (14-ha) Alta project north of Acanto Drive and west of Palm Canyon Wash (Tribal lands). These projects have resulted in the loss of, or impacts to, approximately 99 ac (40 ha) of occupied and likely occupied Casey's June beetle habitat from 2003 to 2006. Hovore (2003, p. 4) hypothesized that the destruction and isolation of occupied habitat caused by projects 1 and 5 above ''* * * overall may reduce the known range and extant population of the species by about one third.''

We conducted an additional analysis (Anderson and Love 2007, pp. 1–2) using available aerial photographs (from 1991), satellite imagery (from 1996, 2003, and 2005), and 2006 field surveys (Anderson 2006b, pp. 1–36) to determine rates of habitat loss in southern Palm Springs over the past 16 years. From 1991 to 2006, Casey's June beetle experienced an approximate 25 percent reduction in contiguous, undeveloped habitat from 770 ac (312 ha) in 1991 to 576 ac (233 ha) in 2006. Habitat loss has been greatest in recent years: at a rate of 2 percent per year from 1991 to 1996, at a rate of 1 percent per year from 1996 to 2003, and at a rate of 5 percent per year from 2003 to 2006. At this recent rate, all habitat remaining for Casey's June beetle would disappear in about twenty years (the foreseeable future).

Since publication of the August 8, 2006, 90-day finding (71 FR 44960), we have become aware of another project that will destroy or impact extant Casey's June beetle habitat. The 80- to 100-ac (32- to 40-ha) Alturas residential sub-division development project (also referred to as Eagle Canyon) is currently planned on Tribal lands (Davis 2007, p. 1; Park 2007, p. 1) in the area containing CdC soils west of South Palm Canyon Drive, and near Bogert Trail and Acanto Drive. This project has completed the environmental review process (CEQA), and is in the process of obtaining a grading permit (tentative tract number 30047). Our analysis (Anderson and Love 2007, pp. 1–3) determined that this project would alter the drainage system maintaining soil moisture levels in approximately 54 ac likely to be occupied by Casey's June beetle, including extant habitat near the section of Bogert Trail and South Palm Canyon Drive where occupancy was documented by Hovore (Frank Hovore and Associates 1995, p. 5; Hovore 1997a, p. 2 and 1997b, p. 4). The Alturas project would also directly impact CdC soils likely to be occupied, and by disrupting the water source maintaining suitable soil moisture levels, potentially decrease the 576 ac (233 ha) of remaining extant, suitable habitat by 9 percent. Surveys are currently being conducted adjacent to the Alturas project, where occupancy was previously documented, to determine likelihood of current habitat occupancy (Osborne 2007, p. 1; Park 2007, p. 1).

All habitat loss calculations above included wash habitat where Casey's June beetle may not be able to maintain occupancy following severe flood events (Cornett 2004, p. 14; Hovore 2003, p.11). Of the total 576 ac (233 ha) estimated remaining habitat, only 328 ac (133 ha) is upland habitat (excluding habitat that will be impacted by the Alturas project). According to Coachella Valley General Plan data (Riverside County 1999), all remaining upland habitat within Smoke Tree Ranch and on Tribal land north of Acanto Drive was projected to be developed at a density of 2 homes per acre by the year 2020. Although the projected land use designation code (''58'') for undeveloped habitat south of Acanto Drive was not defined in the documents available to us (Riverside County 1999), they have the same code as adjacent, already developed land (that is, East Bogert Trail area). Land use projections (Riverside County 1999) indicate most of the 328 ac (133 ha) remaining upland Casey's June beetle habitat could be eliminated by development within 12 years.

The development threat is greatest in upland CdC soil habitat areas that are believed to be key refugia for Casey's June beetle (see Habitat section above); however, development threats are not limited to upland habitat. For example, entire sections of Palm Canyon Wash east of occupied habitat near Gene Autry Trail have been converted to golf course landscaping (Anderson and Love 2007, p. 3). La Rue (2006, p. 2) emphasized the magnitude of development threats to *Dinacoma* population survival: ''Most *Dinacoma* have a limited range because of unprecedented habitat destruction and modification for recreational, residential and urban development resulting in serious distributional fragmentation throughout [their] former range. Consequently, several populations [of the genus *Dinacoma*] have been extirpated, especially those that once existed in Los Angeles County (*e.g.*, Glendale, Eaton Canyon).''

Analysis of aerial photography in Palm Canyon Wash indicates numerous land-disturbance activities affecting occupied wash habitat managed by the Riverside County Flood Control and Water Conservation District. In the vicinity of the State Route 111 bridge and Araby Drive, there appears to be road maintenance and flood control activities, as well as unregulated off-road vehicle disturbance. Cornett (2003, p. 12) noted similar off-road vehicle impacts during Casey's June beetle surveys on a nearby site adjacent to Whitewater Wash and the Palm Springs Airport. Any activities that compact or disturb soils when adult beetles are active, or affect soils to a depth where immature stages or resting adults are found, may affect the species' persistence in such areas.

Casey's June beetle habitat in Palm Springs has been increasingly fragmented by development in recent years (see above development discussion). Fragmentation of habitat compromises the ability of the species to disperse and establish new, or augment declining, populations, because females are flightless and males alone cannot establish new populations (Frank Hovore and Associates 1995, p. 7). Hovore (2003, p. 3) indicated that population movement would be ''slow and indirect,'' and suggested the population structure for Casey's June beetle in any given area could be described as multiple mini-colonies or ''clusters of individuals around areas of repeated female emergence.'' This would, in Hovore's (2003, p. 4) assessment, make the species susceptible to extirpation resulting from land use changes that would remove or alter surface features. Although fragmentation of habitat within a population distribution still allows mixing of genes by male flight, it would preclude recolonization of a site should all flightless female individuals be eliminated.

Summary of Factor A

Since 1991, urban development and construction have removed 25 percent of remaining habitat. From 2003 to 2006, habitat loss for the beetle has occurred at a rate of 5 percent per year. Because development trends are continuing (see above discussion of Alturas project approved by the City of Palm Springs, 9 percent loss in 2007), additional habitat for the beetle will be lost. The estimated amount of contiguous, undeveloped habitat currently available for the species is approximately 576 ac (233 ha) with some of these areas serving as biological ''sinks'' for the species. Based on development trends, the most important habitat for species persistence (alluvial uplands with CDC soil), is the habitat most likely to be lost to future development. Therefore, projected development of remaining upland habitat by the year 2020 would result in almost certain extinction of the species. Based on recent, current, and likely future habitat loss trends, the loss of historically occupied locations, reduced and limited distribution, habitat fragmentation, and land use changes associated with urbanization, we find that Casey's June beetle is threatened with extinction by destruction, modification, and curtailment of its habitat and range.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational purposes

We are not aware of any information regarding overutilization of Casey's June beetle for commercial, recreational, scientific, or educational purposes and do not consider this a threat at this time.

Factor C. Disease or Predation

We are not aware of any information regarding threats of disease or predation to the Casey's June beetle and do not consider this a threat at this time.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Existing regulatory mechanisms that could provide some protection for Casey's June beetle include: (1) Federal laws and regulations, such as the National Environmental Policy Act; (2) State laws and regulations; and (3) local land use processes and ordinances. However, these regulatory mechanisms have not prevented continued habitat fragmentation and modification. There are no regulatory mechanisms that specifically or indirectly address the management or conservation of functional Casey's June beetle habitat. There are no regulatory protections for any other species that may provide incidental benefit to Casey's June beetle. We discuss existing regulatory mechanisms below.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347), as amended, requires Federal agencies to describe the proposed action, consider alternatives, identify and disclose potential environmental impacts of each alternative, and involve the public in the decision-making process. The resulting documents are primarily disclosure documents, and NEPA does not require or guide mitigation for impacts. Projects that are covered by certain ''categorical exclusions'' are exempt from NEPA biological evaluation. However, Federal agencies are not required to select the alternative having the least significant environmental impacts. A Federal agency may select an action that will adversely affect sensitive species provided that these effects were known and identified in a NEPA document.

State

The California Environmental Quality Act (CEQA 1970, as amended) requires disclosure of potential environmental impacts of public or private projects carried out or authorized by all non-Federal agencies in California. CEQA guidelines require a finding of significance if the project has the potential to ''reduce the number or restrict the range of an endangered, rare or threatened species'' (CEQA Guideline 15065). The lead agency can either require mitigation for unavoidable significant effects, or decide that overriding considerations make mitigation infeasible (CEQA Guideline 21002), although such overrides are rare. CEQA can provide some protections for a species that, although not listed as threatened or endangered, meets one of several criteria for rarity (CEQA Guideline 15380). For example, the Monte Sereno project (see specific project description (1) under Factor A above) impacted approximately 39 ac (16 ha) of occupied habitat. Impacts to Casey's June beetle were expected to be mitigated by payment of $600 per acre (total of $24,780) to the City of Palm Springs or a habitat conservation entity designated by the city for 41.3 ac (16.7 ha) of ''potential'' Casey's June beetle habitat (Dudek and Associates 2001, p. 24). However, no specific use of the funds for mitigation was specified (Dudek and Associates 2001, p. 24), and to our knowledge, no appropriate habitat has been conserved for Casey's June beetle to offset the Monte Sereno project impacts.

Examples of the limitation of CEQA to protect Casey's June beetle can also be found with Smoke Tree Ranch properties. In 2006, the City of Palm Springs issued a mitigated negative CEQA declaration for Smoke Tree Ranch Cottages (see specific project description (3) under Factor A above) (City of Palm Springs 2006, p. 2), finding ''no significant impact'' to Casey's June beetle, even though at least 7 ac (3 ha) of habitat was to be developed that Cornett's study (2004, pp. 18–27) identified as occupied. Another example includes the Smoketree Commons shopping center (see specific project description (4) under Factor A above). The project's Environmental Impact Review (EIR; Pacific Municipal Consultants 2005, p. 9) stated that the City of Palm Springs was responsible for enforcing and monitoring Casey's June beetle mitigation measures prior to issuance of a grading permit, including recording a conservation easement and developing a management plan for Casey's June beetle on conserved habitat. An easement was established; however, no management plan was drafted prior to issuance of the grading permit, and no monitoring or management activities are assured (Ewing 2007, p. 1).

We were unable to obtain copies of the Alturas development project EIR for review (see Factor A above, and Tribal discussion below) from the City of Palm Springs Planning Department or the author (Terra Nova Consulting). The project has completed the environmental review, and the project proponent has a tentative tract number with the City of Palm Springs (tentative tract number 30047).

The California Endangered Species Act (CESA) provides protections for many species of plants, animals, and some invertebrate species. However, insect species, such as the Casey's June beetle, are afforded no protection under the CESA. This is a further example of an existing regulatory mechanism that does not provide for the protection of the Casey's June beetle or its habitat.

Tribal

Reservation lands of the Agua Caliente Tribe encompass 257 ac (104 ha), approximately 45 percent of estimated extant Casey's June beetle habitat (RA and CdC soils; Anderson and Love 2007, pp. 1–3). All post–1996 development of occupied habitat, with the exception of the 17–ac (7–ha) Smoke Tree Commons project, has occurred on Tribal reservation land (see Factor A above). Because the remaining 163 ac (66 ha) of upland habitat (CdC soils) on Tribal reservation lands are relatively

flat and adjacent to or surrounded by recent development (Anderson and Love 2007, pp. 1–3), some of these lands are currently approved for development (Alturas project discussed above), and will likely continue to be targeted for development in the future.

While development on Tribal lands is sometimes subject to NEPA (42 U.S.C. 4321–4347), impacts to Casey's June beetle may not always be considered during the NEPA process. The inadequacy of NEPA to protect occupied Casey's June beetle habitat is demonstrated by the extent of development that has occurred over the past 5 years on Tribal lands in occupied habitat (see Factor A above).

In a letter to the Carlsbad Fish and Wildlife Office's Field Supervisor dated October 10, 2006, the Tribe stated that they had '' * * * enacted a Tribal Environmental Policy Act to, among other things, ensure protection of natural resources and the environment. See Tribal Ordinance No. 28 at I.B., (2000).'' We have reviewed the referenced Tribal Environmental Policy Act (Tribal Act) (Tribe 2000) and found the Tribal Act to be general, stating that the Tribe is the lead agency for preparing environmental review documents, and that Tribal policy is to protect the natural environment, including ''all living things.'' According to the Tribal Act (Tribe 2000, p. 4), the Tribe will consult with any Federal, State, and local agency that has special expertise with respect to environmental impacts. Occupancy of the Bogert Trail site in the vicinity of South Palm Canyon Drive on Tribal land (Duff 1990, pp. 2–3, 4; Barrows and Fisher 2000, p. 1; Cornett 2004, p. 3; Hovore 1997b, p. 4; Hovore 2003, p. 4) has been greatly reduced, if not eliminated, by development since our receipt of the petition in 2004 (see Factor A above). The Alta and Monte Serano development projects eliminated most of the species' upland habitat outside of Smoke Tree Ranch estimated to be occupied in 2003. Frank Hovore (2003, p. 4) estimated that grading for the Alta project near South Palm Canyon Drive in May 2003 reduced the extant Casey's June beetle population size by ''about one-third.''

The Service was not consulted regarding Casey's June beetle prior to the recent development of the Alta and Monte Serano projects in occupied Casey's June beetle habitat; therefore, the Tribal Act does not appear to effectively protect the species' habitat. The Chief Planning and Development Officer for the Tribe (Davis 2007, p. 1) affirmed that the Tribal Act does not apply to all Tribal reservation lands; for example, the currently planned Alturas development project (see Factor A above) is not covered, because it is ''fee land.'' Although environmental review documents (CEQA EIRs) were prepared by consultants and reviewed by the City of Palm Springs, the Tribe did not participate in the review or comment with regard to Casey's June beetle (Davis 2007, p. 1). The Service will continue to work with the Tribe to obtain any other information that illustrates how Tribal actions or policies would help conserve Casey's June beetle habitat and protect the species; however, we have not documented the protection of occupied Casey's June beetle habitat from development on Tribal reservation lands.

Habitat Conservation Plans (HCPs)

Some non-Federal lands within the purported historical range of Casey's June beetle are proposed for management under the Coachella Valley Association of Governments Habitat Conservation Plan (MSHCP). A supplemental Environmental Impact Statement (EIS)/EIR on the revised plan was made available to the public March 30, 2007 (72 FR 15148), and the public comment period closed May 29, 2007. Although Casey's June beetle was initially considered for coverage under the MSHCP, the March 2007 release of the final MSHCP, final EIR, and final implementing agreement did not include Casey's June beetle as a covered species. Because it is not a covered species, the MSHCP will not provide for protection or conservation of Casey's June beetle.

We continue to work with the Tribe on a HCP proposed to cover other imperiled species that may be impacted by development activities on Tribal land. At a meeting on March 7, 2007, the Tribe indicated a willingness to consider including Casey's June beetle in their plan; however, the current draft Tribal HCP does not include coverage of Casey's June beetle. Therefore, we currently do not anticipate conservation measures benefiting Casey's June beetle to result from this HCP. However, we have analyzed inclusion of Casey's June beetle as a covered species in the Tribal HCP as one of multiple alternatives in the draft EIS, which will be available for public review and comment during the summer of 2007. Because Casey's June beetle is not included as a covered species at this time, we do not consider the draft Tribal HCP will provide a conservation benefit to Casey's June beetle.

Candidate Conservation Agreements

Given the non-inclusion of Casey's June beetle in the final Coachella Valley MSHCP and draft Agua Caliente Tribal HCP, the Service has been working with Smoke Tree Ranch to develop a Candidate Conservation Agreement with Assurances (CCAA) to address Casey's June beetle conservation. As indicated in comprehensive scientific survey report range estimates (Simonsen-Marchant and Marchant 2001, p. 6; Cornett 2004, p. 13), Smoke Tree Ranch supports a substantial portion of known occupied Casey's June beetle habitat, including a portion of the property currently identified in Smoke Tree Ranch codes, covenants, and restrictions as ''open space.'' The Service will continue to work cooperatively with Smoke Tree Ranch to complete and implement a CCAA for Casey's June beetle. The use of a CCAA can be an effective tool to conserve species in the absence of listing as threatened or endangered under the Act. For example, a CCAA can limit the use of bug-zappers or pesticides near occupied habitat or can mandate monitoring and adaptive management. However, until such time as a CCAA is completed, current regulatory mechanisms at Smoke Tree Ranch are inadequate to ensure conservation of the species. This CCAA will not be completed before the publication of this 12-month finding.

Summary of Factor D

Removal of occupied habitat by projects in the Bogert Trail area after the 2004 submission of the petition to list Casey's June beetle as endangered, and other recent and proposed development in occupied habitat, demonstrates existing regulatory mechanisms are not adequate to protect remaining occupied and essential Casey's June beetle habitat. Therefore, we find that the inadequacy of existing regulatory mechanisms presents a threat to the survival of Casey's June beetle.

Factor E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

The one known remaining Casey's June beetle population in south Palm Springs also may be threatened by other natural or anthropogenically influenced factors, primarily increased intensity and frequency of scouring events in wash habitat. However, there is little species-specific scientific information describing the potential for these threats, and these issues should be the subject of future research.

Urban development adjacent to natural creek beds or washes

concentrates stream flow by constraining channel width, thereby increasing the speed of water flowing past a given location (hydrograph; cubic feet per second) (Leroy *et al.*, p. 772). Therefore, although no relevant hydrographic data is available for occupied areas of Palm Canyon Wash prior to 1988 (existing levees were already constructed; Anderson 2007, p. 9), it can be assumed that development adjacent to Palm Canyon Wash and associated flood-control levees has increased the intensity of scouring events believed by Hovore (2003, p. 11) and Cornett (2004, p. 14) to temporarily eliminate Casey's June beetles within Palm Canyon Wash. As a result, increased impacts of flood scouring to the one remaining population, already impacted and threatened by development, must be considered a significant contributing factor to the species' extinction probability.

Casey's June beetle is sensitive to changes in climate factors such as wind, temperature (for example, drying of alluvial soils), precipitation, and catastrophic flood events (Noss *et al.* 2001, p. 42; La Rue 2006, p. 2). As discussed above, increased intensity and frequency of flooding and scouring events in Palm Canyon Wash is of particular concern for Casey's June beetle. The frequency of heavy precipitation events has increased over most land areas (typically post-1960), consistent with warming and observed increases of atmospheric water vapor, and it is ''very likely'' (90 percent confidence) that heavy precipitation will become even more frequent (IPCC 2007, pp. 2 and 8–9). A review of literature and historic climate data (Anderson 2007, pp. 1–6) indicates Coachella Valley precipitation, peak stream flow (hydrograph; cubic feet per second) in Palm Canyon, and other weather patterns since 1950 have been locally consistent with global patterns reported by the IPCC (2007 p. 2, pp. 8–9 and 15). Therefore, it is likely that the severity and frequency of heavy precipitation events will increase in the area.

Summary of Factor E

The one remaining Casey's June beetle population in southern Palm Springs is likely threatened with extirpation in part by increased intensity and frequency of catastrophic flood events. We, therefore, find that other natural or manmade factors affecting the continued existence of the species present a likely threat to the survival of Casey's June beetle.

Finding

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. We reviewed the petition, available published and unpublished scientific and commercial information, and information submitted to us during the public comment period following the publication of our 90-day petition finding. This 12-month finding reflects and incorporates information we received during the public comment period, or obtained through consultation, literature research, and field visits, and responds to significant issues. We also consulted with recognized Casey's June beetle experts. On the basis of this review, we find that the listing of Casey's June beetle is warranted, due to threats associated with urban development, the inadequacy of existing regulatory mechanisms, and other natural and manmade factors. However, listing of Casey's June beetle is precluded at this time by pending proposals for other species with higher listing priorities based on taxonomic uniqueness (that is, the only species described for the genus).

In making this finding, we recognize that there have been declines in the distribution and abundance of Casey's June beetle, primarily attributed to suburban development and habitat alteration (Factor A). From 1991 to 2006, Casey's June beetle experienced an estimated 25 percent reduction in contiguous, undeveloped habitat from 770 ac (312 ha) in 1991 to 576 ac (233 ha) in 2006. Habitat loss has been greatest in recent years. From 1991 to 1996, habitat was lost at a rate of 2 percent per year; from 1996 to 2003, at a rate of 1 percent per year; and from 2003 to 2006, at a rate of 5 percent per year. An additional 9 percent of apparent key refugia habitat will be impacted by development in 2007. At this rate, we could expect all remaining habitat will be lost within 20 years. Recent trends and projected development information indicate that all Casey's June beetle habitat continues to be threatened with further loss, degradation, and fragmentation, resulting in a negative impact on species' distribution and abundance. Federal (NEPA) and State (CEQA) regulations have not been adequate to prevent or minimize the loss of occupied habitat, as evidenced by recent development projects in occupied habitat. Although protections for occupied habitat under a Smoke Tree Ranch CCAA and a Tribal HCP are under consideration, these agreements have not been finalized (Factor D). Increased intensity and frequency of scouring events in wash habitat are threats that have likely contributed to decline of the species (Factor E). Since this finding is warranted but precluded, we do not need to specifically determine whether it is appropriate to perform a ''significant portion of the range'' analysis for this species. However, due to the restricted nature of Casey's June beetle's range, we generally consider all of the remaining range to be significant for the conservation of this species. Because of a small and restricted population distribution, and because of threats described above, Casey's June beetle should be listed as threatened or endangered throughout its entire range. We will review whether to list as threatened or endangered during the proposed listing rule process.

Preclusion and Expeditious Progress

Preclusion is a function of the listing priority of a species in relation to the resources that are available and competing demands for those resources. Thus, in any given fiscal year (FY), multiple factors dictate whether it will be possible to undertake work on a proposed listing regulation or whether promulgation of such a proposal is warranted but precluded by higher priority listing actions.

The resources available for listing actions are determined through the annual Congressional appropriations process. The appropriation for the Listing Program is available to support work involving the following listing actions: proposed and final listing rules; 90-day and 12-month findings on petitions to add species to the Lists or to change the status of a species from threatened to endangered; resubmitted petition findings; proposed and final rules designating critical habitat; and litigation-related, administrative, and program management functions (including preparing and allocating budgets, responding to Congressional and public inquiries, and conducting public outreach regarding listing and critical habitat). The work involved in preparing various listing documents can be extensive and may include, but is not limited to: gathering and assessing the best scientific and commercial data available and conducting analyses used as the basis for our decisions; writing and publishing documents; and obtaining, reviewing, and evaluating public comments and peer review comments on proposed rules and incorporating relevant information into final rules. The number of listing actions that we can undertake in a given

year also is influenced by the complexity of those listing actions, that is, more complex actions generally are more costly. For example, during the past several years, the cost (excluding publication costs) for preparing a 12-month finding, without a proposed rule, has ranged from approximately $11,000 for one species with a restricted range and involving a relatively uncomplicated analysis, to $305,000 for another species that is wide-ranging and involved a complex analysis.

We cannot spend more than is appropriated for the Listing Program without violating the Anti-Deficiency Act (see 31 U.S.C. 1341(a)(1)(A)). In addition, in FY 1998 and for each fiscal year since then, Congress has placed a statutory cap on funds which may be expended for the Listing Program, equal to the amount expressly appropriated for that purpose in that fiscal year. This cap was designed to prevent funds appropriated for other functions under the Act, or for other Service programs, from being used for Listing Program actions (see House Report 105–163, 105th Congress, 1st Session, July 1, 1997).

Recognizing that designation of critical habitat for species already listed would consume most of the overall Listing Program appropriation, Congress also put a critical habitat subcap in place in FY 2002 and has retained it each subsequent year to ensure that some funds are available for other work in the Listing Program: ''The critical habitat designation subcap will ensure that some funding is available to address other listing activities'' (House Report No. 107–103, 107th Congress, 1st Session, June 19, 2001). In FY 2002 and each year since then, the Service has had to use virtually the entire critical habitat subcap to address court-mandated designations of critical habitat, and consequently none of the critical habitat subcap funds have been available for other listing activities.

Thus, through the listing cap, the critical habitat subcap, and the amount of funds needed to address court-mandated critical habitat designations, Congress and the courts have in effect determined the amount of money available for other listing activities. Therefore, the funds in the listing cap, other than those needed to address court-mandated critical habitat for already listed species, set the limits on our determinations of preclusion and expeditious progress.

Congress also recognized that the availability of resources was the key element in deciding whether, when making a 12-month petition finding, we would prepare and issue a listing proposal or make a ''warranted but precluded'' finding for a given species. The Conference Report accompanying Public Law 97–304, which established the current statutory deadlines and the warranted-but-precluded finding, states (in a discussion on 90-day petition findings that by its own terms also covers 12-month findings) that the deadlines were ''not intended to allow the Secretary to delay commencing the rulemaking process for any reason other than that the existence of pending or imminent proposals to list species subject to a greater degree of threat would make allocation of resources to such a petition [i.e., for a lower-ranking species] unwise.'' Taking into account the information presented above, in FY 2007, the outer parameter within which ''expeditious progress'' must be measured is that amount of progress that could be achieved by spending $5,193,000, which is the amount available in the Listing Program appropriation that is not within the critical habitat subcap.

Our process is to make our determinations of preclusion on a nationwide basis to ensure that the species most in need of listing will be addressed first and also because we allocate our listing budget on a nationwide basis. However, through court orders and court-approved settlements, Federal district courts have mandated that we must complete certain listing activities with respect to specified species and have established the schedules by which we must complete those activities. The species involved in these court-mandated listing activities are not always those that we have identified as being most in need of listing. As described below, a large majority of the $5,193,000 appropriation available in FY 2007 for new listings of species is being consumed by court-mandated listing activities; by ordering or sanctioning these actions, the courts essentially determined that these were the highest priority actions to be undertaken with available funding. Copies of the court orders and settlement agreements referred to below are available from the Service and are part of our administrative record.

The FY 2007 appropriation of $5,193,000 for listing activities (that is, the portion of the Listing Program funding not related to critical habitat designations for species that already are listed) is fully allocated to fund work in the following categories of actions in the Listing Program: compliance with court orders and court-approved settlement agreements requiring that petition findings or listing determinations be completed by a specific date; section 4 (of the Act) listing actions with absolute statutory deadlines; essential litigation-related and administrative- and program-management functions; and a few high-priority listing actions. The allocations for each specific listing action are identified in the Service's FY 2007 Allocation Table. While more funds are available in FY 2007 than in previous years to work on listing actions that were not the subject of court-orders or court-approved settlement agreements, based on the available funds and their allocation for these purposes, only limited FY 2007 funds are available for work on proposed listing determinations for the following high-priority candidate species: two Oahu plants (*Doryopteris takeuchii*, *Melicope hiiakae*), seven Kauai plants (*Chamaesyce eleanoriae*, *Charpentiera densiflora*, *Melicope degeneri*, *Myrsine mezii*, *Pritchardia hardyi*, *Psychotria grandiflora*, *Schiedea attenuata*) and four Hawaiian damselflies (*Megalagrion nesiotes*, *Megalagrion leptodemas*, *Megalagrion oceanicum*, *Megalagrion pacificum*). These species have all been assigned a listing priority number (LPN) of 2.

Our decision that a proposed rule to list Casey's June beetle is warranted but precluded includes consideration of its listing priority. In accordance with guidance we published on September 21, 1983, we assign a LPN to each candidate species (48 FR 43098). Such a priority ranking guidance system is required under section 4(h)(3) of the Act (16 U.S.C. 1533(h)(3)). Using this guidance, we assign each candidate a LPN of 1 to 12, depending on the magnitude of threats, imminence of threats, and taxonomic status; the lower the listing priority number, the higher the listing priority (that is, a species with an LPN of 1 would have the highest listing priority). The threats described above for Casey's June beetle occur across its entire range, resulting in a negative impact on the species' distribution and abundance. We assigned Casey's June beetle an LPN of 2, based on threats that were of a high magnitude and imminent, and on its taxonomic status as a species. We currently have more than 120 species with an LPN of 2 (see Table 1 of the September 12, 2006, Notice of Review; 71 FR 53756). As such, the 1983 listing priority number system is not adequate to differentiate sufficiently among species based on their degree of extinction risk. Therefore, we further ranked the candidate species with an LPN of 2 by using the following extinction-risk type criteria: IUCN Red list status/rank, Heritage rank (provided

by NatureServe), Heritage threat rank (provided by NatureServe), and species currently with fewer than 50 individuals, or 4 or fewer populations. Those species with the highest IUCN rank (critically endangered), the highest Heritage rank (G1), the highest Heritage threat rank (substantial, imminent threats), and currently with fewer than 50 individuals, or fewer than 4 populations comprise a list of approximately 40 candidate species (''Top 40'') that have the highest priority to receive funding to work on a proposed listing determination. For the next two years, we have funded proposed listings for species in the Top 40. Casey's June beetle is precluded by those species we have funded.

As explained above, a determination that listing is warranted but precluded also must demonstrate that expeditious progress is being made to add and remove qualified species to the Lists. (We note that in this finding we do not discuss specific actions taken on progress towards removing species from the Lists because that work is conducted using appropriations for our Recovery program, a separately budgeted component of the Endangered Species Program. As explained above in our description of the statutory cap on Listing Program funds, the Recovery Program funds and actions supported by them cannot be considered in determining expeditious progress made in the Listing Program.) As with our ''precluded'' finding, expeditious progress in adding qualified species to the Lists is a function of the resources available and the competing demands for those funds. Our expeditious progress in FY 2007 in the Listing Program, up to the date of making this 12-month finding for Casey's June beetle, included preparing and publishing the following:

FY 2007 COMPLETED LISTING ACTIONS AS OF 06/6/2007

Publication date	Title	Species/actions	FR Pages
10/11/2006	Withdrawal of the Proposed Rule to List the Cow Head Tui Chub (*Gila biocolor vaccaceps*) as Endangered.	Final withdrawal, Threats eliminated.	71 FR 59700–59711.
10/11/2006	Revised 12-Month Finding for the Beaver Cave Beetle (*Pseudanophthalmus major*); Not Warranted.	Notice of 12-month petition finding, Not warranted.	71 FR 59711–59714.
11/14/2006	12-Month Finding on a Petition to List the Island Marble Butterfly (*Euchloe ausonides insulanus*) as Threatened or Endangered.	Notice of 12-month petition finding, Not warranted.	71 FR 66292–66298.
11/14/2006	90-Day Finding for a Petition to List the Kennebec River Population of Anadromous Atlantic Salmon as Part of the Endangered Gulf Of Maine Distinct Population Segment.	Notice of 90-day petition finding, Substantial.	71 FR 66298–66301.
11/21/2006	90-Day Finding on a Petition To List the Columbian Sharp-Tailed Grouse as Threatened or Endangered.	Notice of 90-day petition finding, Not substantial.	71 FR 67318–67325.
12/5/2006	90-Day Finding on a Petition To List the Tricolored Blackbird as Threatened or Endangered.	Notice of 90-day petition finding, Not substantial.	71 FR 70483–70492.
12/6/2006	12-Month Finding on a Petition To List the Cerulean Warbler (*Dendroica cerulea*) as Threatened with Critical Habitat.	Notice of 12-month petition finding, Not warranted.	71 FR 70717–70733.
12/6/2006	90-Day Finding on a Petition To List the Upper Tidal Potomac River Population of the Northern Water Snake (*Nerodia sipedon*) as an Endangered Distinct Population Segment.	Notice of 90-day Petition Finding, Not substantial.	71 FR 70715–70717.
12/14/2006	90-Day Finding on a Petition to Remove the Uinta Basin Hookless Cactus From the List of Endangered and Threatened Plants; 90-Day Finding on a Petition To List the Pariette Cactus as Threatened or Endangered.	Notice of 5-year Review, Initiation. Notice of 90-day petition finding, Not substantial. Notice of 90-day petition finding, Substantial.	71 FR 75215–75220.
12/19/2006	Withdrawal of Proposed Rule to List *Penstemon grahamii* (Graham's beardtongue) as Threatened With Critical Habitat.	Notice of withdrawal, More abundant than believed, or diminished threats.	71 FR 76023–76035.
12/19/2006	90-Day Finding on Petitions to List the Mono Basin Area Population of the Greater Sage-Grouse as Threatened or Endangered.	Notice of 90-day petition finding, Not substantial.	71 FR 76057–76079.
1/9/2007	12-Month Petition Finding and Proposed Rule To List the Polar Bear (*Ursus maritimus*) as Threatened Throughout Its Range; Proposed Rule.	Notice of 12-month petition finding, Warranted. Proposed Listing, Threatened	72 FR 1063–1099.
1/10/2007	Endangered and Threatened Wildlife and Plants; Clarification of Significant Portion of the Range for the Contiguous United States Distinct Population Segment of the Canada Lynx.	Notice of Guidance	72 FR 1186–1189.
1/12/2007	Withdrawal of Proposed Rule To List *Lepidium papilliferum* (Slickspot Peppergrass) Proposed rule; withdrawal.	Notice of withdrawal, More abundant than believed, or diminished threats.	72 FR 1621–1644.
2/2/2007	12-Month Finding on a Petition To List the American Eel as Threatened or Endangered.	Notice of 12-month petition finding, Not warranted.	72 FR 4967–4997.
2/8/2007	Final Rule Designating the Western Great Lakes Populations of Gray Wolves as a Distinct Population Segment; Removing the Western Great Lakes Distinct Population Segment of the Gray Wolf From the List of Endangered and Threatened Wildlife.	Final Deferred date ..... Final Delisting, Recovered ..... Final Listing, Endangered	72 FR 6051–6103.
2/13/2007	90-Day Finding on a Petition To List the Jollyville Plateau Salamander as Endangered.	Notice of 90-day petition finding, Substantial.	72 FR 6699–6703.

FY 2007 COMPLETED LISTING ACTIONS AS OF 06/6/2007—Continued

Publication date	Title	Species/actions	FR Pages
2/13/2007	90-Day Finding on a Petition To List the San Felipe Gambusia as Threatened or Endangered.	Notice of 90-day petition finding, Not substantial.	72 FR 6703–6707.
2/14/2007	90-Day Finding on A Petition to List *Astragalus debequaeus* (DeBeque milkvetch) as Threatened or Endangered.	Notice of 90-day petition finding, Not substantial.	72 FR 6998–7005.
2/21/2007	90-Day Finding on a Petition To Reclassify the Utah Prairie Dog From Threatened to Endangered and Initiation of a 5-Year Review.	Notice of 5-year Review, Initiation. Notice of 90-day petition finding, Not substantial.	72 FR 7843–7852.
3/8/2007	90-Day Finding on a Petition To List the Monongahela River Basin Population of the Longnose Sucker as Endangered.	Notice of 90-day petition finding, Not substantial.	72 FR 10477-10480.
3/29/2007	Final Rule Designating the Greater Yellowstone Area Population of Grizzly Bears as a Distinct Population Segment; Removing the Yellowstone Distinct Population Segment of Grizzly Bears From the Federal List of Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List as Endangered the Yellowstone Distinct Population Segment of Grizzly Bears.	Final delisting, Recovered Final listing, Threatened.	72 FR 14865–14938.
03/29/2007	90-Day Finding on a Petition To List the Siskiyou Mountains Salamander and Scott Bar Salamander as Threatened or Endangered.	Notice of 90-day petition finding, Substantial.	72 FR 14750-14759.
04/04/2007	Adding Four Marine Taxa to the List of Endangered and Threatened Wildlife (Southern Distinct Population Segment (DPS) of green sturgeon (*Acipenser medirostris*), staghorn (*Acropora cervicornis*) and elkhorn (*Acropora palmata*) corals, and the Southern Resident killer whale DPS (Orcinus orca)).	Final listing, Endangered; Final listing, Threatened.	72 FR 16284–16286.
04/24/2007	Revised 12-Month Finding for Upper Missouri River Distinct Population Segment of Fluvial Arctic Grayling.	Notice of 12-month petition finding, Not warranted.	72 FR 20305-20314.
05/02/2007	12-Month Finding on a Petition to List the Sand Mountain Blue Butterfly (*Euphilotes pallescens* ssp. *arenamontana*) as Threatened or Endangered with Critical Habitat.	Notice of 12-month petition finding, Not warranted.	72 FR 24253–24263.
05/30/2007	90-Day Finding on a Petition To List the Mt. Charleston Blue Butterfly as Threatened or Endangered.	Notice of 90-day petition finding, Substantial.	72 FR 29933–29941.

Our expeditious progress also includes work on listing actions for 29 species for which decisions have not been completed as of the date we made this 12-month finding for Casey's June beetle. These actions are listed below; we are conducting work on those actions in the top section of the table pursuant to a deadline set by a court and on all other actions pursuant to meeting statutory timelines, that is, timelines required under the Act:

LISTING ACTIONS FUNDED BUT NOT YET COMPLETED IN FY2007

Species	Action
Actions Subject to Court Order/Settlement Agreement	
Wolverine	12-month petition finding (remand).
Western sage grouse	90-day petition finding (remand).
Queen Charlotte goshawk	Final listing determination.
Rio Grande cutthroat trout	12-month petition finding (remand).
Sierra Nevada distinct population segment mountain yellow-legged frog	12-month petition finding (remand).
Statutory Listing Actions	
Polar bear	Final listing determination.
Ozark chinquapin	90-day petition finding.
Kokanee	90-day petition finding.
Goose Creek milkvetch	90-day petition finding.
Utah prairie dog	90-day petition finding.
Black-footed albatross	90-day petition finding.
Tucson shovel-nosed snake	90-day petition finding.
Gopher tortoise—Florida population	90-day petition finding.
Sacramento Valley tiger beetle	90-day petition finding.
Eagle lake trout	90-day petition finding.
Smooth billed ani	90-day petition finding.
Mojave ground squirrel	90-day petition finding.
Gopher tortoise—Eastern population	90-day petition finding.
Bay Springs salamander	90-day petition finding.
Tehachapi slender salamander	90-day petition finding.
Coaster brook trout	90-day petition finding.
Mojave fringe-toed lizard	90-day petition finding.

LISTING ACTIONS FUNDED BUT NOT YET COMPLETED IN FY2007—Continued

Species	Action
Evening primrose	90-day petition finding.
Palm Springs pocket mouse	90-day petition finding.
Northern leopard frog	90-day petition finding.
Mountain whitefish—Big Lost River population	90-day petition finding.
Giant Palouse earthworm	90-day petition finding.
Shrike, Island loggerhead	90-day petition finding.
Cactus ferruginous pygmy owl	90-day petition finding.
HIGH PRIORITY:	
2 Oahu plants	Proposed listing.
7 Kauai plants	Proposed listing.
4 Hawaiian damselflies	Proposed listing.

We have endeavored to make our listing actions as efficient and timely as possible, given the requirements of the relevant laws and regulations, and constraints relating to workload and personnel. We are continually considering ways to streamline processes or achieve economies of scale, such as by batching related actions together. Given our limited budget for implementing section 4 of the Act, the actions described above collectively constitute expeditious progress.

Conclusion

We will add Casey's June beetle to the list of candidate species upon publication of this notice of 12-month finding. We request that interested parties submit any new information on status and threats for this species. Natural history and distribution information in particular will help us monitor and focus habitat conservation of this species. Should an emergency situation develop with this or any candidate species, we will act to provide immediate protection, if warranted.

We intend that any proposed listing action for Casey's June beetle will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

References Cited

A complete list of all references cited is available on request from the Carlsbad Fish and Wildlife Office (see **ADDRESSES** above).

Author(s)

The primary author of this document is Alison Anderson of the Carlsbad Fish and Wildlife Office (see **ADDRESSES** above).

Authority

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

Dated: June 28, 2007.

Kevin Adams,

Acting Director, Fish and Wildlife Service.

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