

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
<i>Phacelia submutica</i>	DeBeque phacelia	U.S.A. (CO)	Hydrophyllaceae	T		NA	NA
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\* \* \* \* \*

Dated: June 8, 2010

**Jeffrey L. Underwood,**

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010-15251 Filed 6-22-10; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R9-ES-2009-0094]

[MO92210-0-0010-B6]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Honduran Emerald Hummingbird as Endangered

**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 as endangered under the Endangered Species Act of 1973, as amended (Act), the Honduran emerald hummingbird (*Amazilia luciae*). We find that the petition presents substantial scientific or commercial information indicating that listing the Honduran emerald hummingbird may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the Honduran emerald hummingbird to determine if listing is warranted. To ensure that the status review is comprehensive, we are soliciting information and data regarding this species.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before August 23, 2010. After this date, you must submit information directly to the address in the **FOR FURTHER INFORMATION CONTACT** section). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit comments by one of the following methods:

- Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Keyword box, enter Docket No. **FWS-R9-ES-2009-0094** which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen under the **Document Type** heading, click on the **Proposed Rules** link to locate this document. You may submit a comment by clicking on "**Send a Comment or Submission**."

- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: **FWS-R9-ES-2009-0094**; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Information Solicited** section below for more details).

#### FOR FURTHER INFORMATION CONTACT:

Nicole Alt, Chief, Division of Conservation and Classification, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703-358-2171; facsimile 703-358-1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Request for Information

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly review the status of the species (status review). To ensure that the status review is complete and based on the best available scientific and commercial information, we request information on the Honduran emerald hummingbird. We request scientific and commercial information from the public, concerned governmental agencies, the scientific community, industry, or any other interested parties on the status of the Honduran emerald hummingbird, throughout its range, including but not limited to:

(1) Information on taxonomy, distribution, habitat selection and

trends (especially breeding and foraging habitats), diet, and population abundance and trends (especially current recruitment data) of this species.

(2) Information on the effects of habitat loss and changing land uses on the distribution and abundance of this species and its principal food sources over the short and long term.

(3) Information on whether changing climatic conditions are affecting the species, its habitat, or its prey base.

(4) Information on the effects of other potential threat factors, including live capture and collection, domestic and international trade, predation by other animals, and diseases of this species or its principal food sources over the short and long term.

(5) Information on management programs for hummingbird conservation, including mitigation measures related to conservation programs, and any other private, tribal, or governmental conservation programs that benefit this species.

(6) Information relevant to whether any populations of this species may qualify as distinct population segments.

(7) Information on captive populations and captive breeding and domestic trade of this species in the United States

(8) Genetics and taxonomy;

(9) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

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

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

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

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

Please include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you include.

We will base our status review on the best scientific and commercial information available, including all information we receive during the public comment period. Please note that

comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be part of the basis of this determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species shall be made “solely on the basis of the best scientific and commercial data available.” At the conclusion of the status review, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Endangered Species Program, Branch of Listing (see **FOR FURTHER INFORMATION CONTACT**).

### Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. 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 scientific or

commercial information was presented, we are required to promptly review the status of the species, which is subsequently summarized in our status review (also referred to as a 12-month finding).

### Petition History

On October 28, 2008, the Service received a petition dated October 28, 2008, from Mr. David Anderson of Louisiana State University on behalf of The Hummingbird Society of Sedona, Arizona; The Hummingbird Conservancy of Butte, Montana; Clos LaChance of San Martin, California; Honduran Environmental Network for Sustainable Development of La Ceiba, Honduras; Fundación Parque Nacional Pico Bonito of La Ceiba, Honduras; EcoLogic Development Fund of Cambridge, Massachusetts; and Crowell and Moring, LLP of the District of Columbia, requesting that we list the Honduran emerald hummingbird as endangered under the Act. The petition clearly identified itself as a petition and included the requisite identification information required at 50 CFR 424.14(a). In response to the petitioners’ request, we sent a letter to Mr. Anderson dated December 5, 2008, that acknowledged receipt of the petition. The petition also included a letter from the Honduras Ambassador, Roberto Flores Bermudez, to Secretary Salazar, dated January 23, 2009, in support of this petition. We also received subsequent letters supporting the petition to list this species from the Francis Lewis High School Key Club on February 12, 2009, the Lehman College Key Club on February 26, 2009, and the Ecologic Development Fund on April 8, 2009. This finding addresses this petition to list this species as endangered.

### Previous Federal Actions

There have been no previous Federal actions concerning this species.

### Species Information

#### Description and Taxonomy

The Honduran emerald hummingbird is in the family Trochilidae (BirdLife International (BLI) 2008, p. 1). The species is medium sized with an average length of 9.5 centimeters (cm) (3.7 inches (in)) (BLI 2008, p. 2). As do all hummingbirds, this hummingbird exhibits slight sexual dimorphism demonstrated in the coloring of the plumage. The male has an iridescent blue-green throat and upper chest, occasionally with a grey mottled coloring. The back is an emerald green color, the ventral side of the bird is pale

grey with mottled green sides, and the tail is bright green with a bronze hint on the upper tail coverts (BLI 2008, p. 1). The bill is black with a red mandible and dark tip. The plumage of the female is less brilliant (BLI 2008, p. 2). The tail of the female contains a grey tip, and the band of distinctive color on the throat of the female hummingbird is narrower, with pale edges (BLI 2008, p. 2; Monroe 1968, p. 183). Juveniles have grayish throats spotted with turquoise (BLI 2008, p. 2).

The species was first taxonomically described by Lawrence in 1867 and placed in the Trochilidae family as *Amazilia luciae* (UNEP-WCMC 2009a, p. 1). According to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) species database, the Honduran emerald hummingbird is also known by the synonyms *Polyerata luciae* and *Thaumatias luciae* (UNEP-WCMC 2009a, p. 1). Both CITES and BirdLife International recognize the species as *Amazilia luciae* (BLI 2008, p. 1). Therefore, we accept the species as *Amazilia luciae*, which follows the Integrated Taxonomic Information System (ITIS 2009). Common names for the species include Honduran emerald hummingbird (English), Ariane De Lucy (French), and Esperalda Hondureña (Spanish).

### Distribution

The Honduran emerald hummingbird is endemic to Honduras (BLI 2008 p. 2; Collar *et al.* 1992, p. 493; Thorn *et al.* 2000, p. 3). The historic range of the species spanned six sites in four Departments (similar to “States” in the United States) in Honduras, including: Santa Barbara, Santa Barbara Department (recorded in May 1935) (Monroe 1968, p. 182); Cofradiá, Cortes Department (recorded March 1933) (Monroe 1968, p. 182); Coyoles, Yoro Department (recorded June 1948 and 1950) (Monroe 1968, p. 182); Olanchito, Yoro Department (recorded June 1988) (Howell and Webb 1989, pp. 642-643); El Boquerón, Olancho Department (recorded September 1937) (Monroe 1968, p. 182); Catacamas, Olancho Department (recorded August 1937) (Monroe 1968, p. 182) and March 1991 (Howell and Webb 1992, pp. 46-47). There are no records of the Honduran emerald hummingbird between 1950 and 1988. In 1988, the species was found to be common in Olanchito and Coyoles, which are located 16 kilometers (km) (9 miles (mi)) apart (BLI 2008, p. 2). In March 1991, Howell and Webb (1992, pp. 46-47) reported that between 22 and 28 individuals were found in a patch of habitat measuring

500 x 50 meters (m) (1,640 x 164 feet (ft)) near Olanchito. The bird was found in 1996 in the Agalta Valley on less than 1 km<sup>2</sup> (247 acres (ac)) of suitable habitat (BLI 2008, p. 3).

According to the petition, the bird has recently only been observed in two valleys, Valle de Aguán in Yoro and Valle de Agalta in Olanchito. This information is supported by Thorn *et al.* (2000), whereby the species was reported in San Esteban, located in the Agalta Valley, Olanchito Department, and Olanchito and Coyoles in the Aguán Valley of the Yoro Department (pp. 22-23). A 2007 expedition (Anderson and Hyman 2007, p. 6) reported species occurrences in a third site, the Telica Valley, Olanchito Department, and confirmed species occurrences in the Agalta Valley near San Esteban.

#### Habitat Characteristics

The Honduran emerald hummingbird prefers arid interior valleys of thorn forest and shrub. Most of the hummingbird's occurrences have been noted at elevations below 410 meters (m) (1,345 feet (ft)); however, one occurrence is recorded at 1,220 m (4,003 ft) (Collar *et al.* 1992, p. 494; Collar *et al.* 1994, p. 119; BLI 2008, p. 3). In the Coyoles area, the thorn forest is primarily comprised of Mimosaceae (herbaceous and woody species), Cactaceae (cactus species), and Euphorbiaceae (herbs, shrubs, trees, and some succulent species) (Collar *et al.* 1992, p. 494). Thorn *et al.* (2000, p. 23) observed that habitat with abundant flowers, red in particular, appear to be a critical characteristic for suitable habitat. The petitioners state that the species is a habitat specialist and claim that it cannot survive without suitable habitat.

#### Life History

The petition provides very limited information on the life history of the Honduran emerald hummingbird and, based on the information available in our files, little life history information exists on this species. As with all hummingbird species, the Honduran emerald relies on nectar-producing flowers for food but also relies on insects and spiders as a source of protein (BLI 2008, p. 3; Collar *et al.* 1992, p. 494). Specifically, the hummingbird has been observed feeding on the following plants: *Pithecellobium lentiscifolium* (no common name (NCN), in the Leguminosae-caesalpinioideae family), *Aechmea cf. bracteata* (NCN, in the Bromeliaceae family), *Pedilanthus cf. tithymaloides* (NCN, in the Euphorbiaceae family), and organ pipe cactus (which is likely to be either

*Lemaireocereus* or *Cephalocereus*) (Collar *et al.* 1992, p. 494; Howell and Webb 1989, p. 643).

The petitioners also indicate that following plant species are food sources for this hummingbird: *Nopalea hondurensis* (paddle cactus, in the Cactaceae family), *Stenocereus yunckeri* (NCN, in the Cactaceae family), *Pilosocereus leucocephalus* (NCN, in the Cactaceae family), *Melocactus curvispinus* (NCN, in the Cactaceae family), *Bromelia plumieri* (NCN, in the Bromeliaceae family), *Tillandsia fasciculata* (NCN, in the Bromeliaceae family), *Tillandsia bracycaulus* (NCN, in the Bromeliaceae family), *Achmea bracteata* (NCN, in the Bromeliaceae family), *Pedilanthus camporum* (NCN, in the Euphorbiaceae family), *Combretum fruticosum* (Orange Flame Vine, in the Combretaceae family), *Psittacanthus rhyncanthus* (NCN, in the Loranthaceae family), and *Aphelandra deppeana* (NCN, in the Acanthaceae family).

There is limited information available on the Honduran emerald hummingbird's behavior; it is generally identified by its plumage. In 1988, one bird was observed defending a territory of 10 m<sup>2</sup> (108 ft<sup>2</sup>), suggesting that the species may be territorial (Collar *et al.* 1992, p. 493; Howell and Webb 1989, p. 643), as are many hummingbird species. In June 1988, Howell and Webb (1989, p. 643) observed several birds feeding at heights between 0.5 to 10 m (2 to 32 ft), and observed a bird with fresh plumage singing. Collar *et al.* (1992, p. 494) thought that the observation may have been made during the species' breeding season.

#### Conservation Status

In 1987, the Honduran emerald hummingbird was listed in CITES Appendix II, which includes species that are not necessarily threatened with extinction, but may become so unless trade is subject to strict regulation to avoid utilization incompatible with the species' survival. International trade in specimens (dead or live) of Appendix II species is authorized through a system of permits or certificates under certain circumstances. This process includes verification that trade will not be detrimental to the survival of the species in the wild, and that the material was legally acquired (UNEP-WCMC 2009a). In 1990, the Honduran emerald hummingbird was placed on the International Union for Conservation of Nature (IUCN) Red list as endangered, and the status changed to critically endangered in 2000 (IUCN 2008; UNEP-WCMC 2009a, p. 2).

The 2008 petition claims that the current global population may be between 500 and 2,000 breeding pairs. However, BirdLife International estimated (2009, p. 2) that the population is between 250 and 999 birds with a decreasing trend, within a range of 12 km<sup>2</sup> (2,965 ac).

#### Evaluation of Information for this Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding species to the Federal List of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information concerning threats to the Honduran emerald hummingbird, as presented in the petition and clarified by information available in our files at the time of the petition review, constitutes substantial scientific or commercial information such that listing under the Act may be warranted. Our evaluation of this information is presented below.

#### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The petition presents numerous assertions regarding the present or threatened destruction, modification, or curtailment of the Honduran emerald hummingbird's habitat or range. The petition received on October 28, 2008, reported that in 2000, a survey was conducted on this species and found that it occurs in dry tropical forest and has specific habitat requirements which were described above (Anderson and Hyman 2007, pp. 1-4). The petitioners estimate that 90 percent of the original habitat of the Honduran emerald hummingbird no longer exists; it was converted to cattle pastures and plantation agriculture (Anderson 2008, p. 11). They indicate that as of the year 2000, only 8,495 hectares (ha) (20,092 ac) (Thorn *et al.* 2008, p. 25) of the species' dry forest habitat remain of what were 16,000 ha (39,537 ac) in 1977 and 30,000 ha (74,132 ac) in 1938.

The petition indicated that the hummingbird is no longer found in the Santa Bárbara and Corte Departments because all of the original thorn forest has been cleared for housing, towns, agriculture, and cattle grazing. This is supported by information provided with the petition (Stattersfield and Capper 2000, p. 311). Remaining habitat in the Aguán valley (Yoro Department) and Agalta Valley (Olancho Department) is privately owned as large *haciendas* (plantations or farms), where cattle grazing, clearing for cattle, and plantation agriculture continues to occur (Stattersfield and Capper 2000, p. 311). Thorn forests have been cleared in the Aguán Valley to create banana and plantain plantations and rice farms, as well as pasture for cattle (Stattersfield and Capper 2000, p. 311). In 2000, Thorn *et al.* stated that the remaining 150 ha (371 ac) of habitat in San Esteban, south of Boquerón in the Olancho Department, was disturbed by cattle grazing and rice farming (p. 22).

The petition asserts that roads have also been constructed through Honduran emerald habitat and that these roads are having a detrimental effect on the species. The petition provides a photograph of a road construction project widening the principle highway between Olanchito and Yoro, spanning 57 km (35 mi). The photo is indicative of previously suitable habitat that had been removed in Olanchito (Stattersfield and Capper 2000, p. 311; Thorn *et al.* 2000, p. 4). Researchers reported on plans to pave and extend this road through the range of the species, and suggested that the road would further exacerbate habitat loss (BLI 2000, p. 311, Thorn *et al.*, p. 32).

Based on the information provided in the petition (p. 3) and the supporting information with respect to the present or threatened destruction, modification, or curtailment of its habitat or range, there appears to be a decrease in the species' suitable habitat. Conversion of land previously known to contain Honduran emerald hummingbirds to agriculture and an apparent decrease in reported occurrences of Honduran emerald hummingbirds between 1988 and 1996 indicate that there may be a decline in suitable habitat (Collar *et al.* 1992, p. 494; Stattersfield and Capper 2000, p. 311). For example, in 1988 the species was known to be common in Olanchito and Coyoles (BLI 2000, p. 311). BirdLife International reported that in 1991, between 22 and 28 individuals were found in 2.5 km<sup>2</sup> (618 ac) of habitat in Olanchito. In 1996 the Honduran emerald hummingbird was found in less than 1 km<sup>2</sup> (247 ac) of

habitat in the Agalta valley (Olancho Department), northeast of Gualaco (Stattersfield and Capper 2000, p. 311). This species appears to have undergone a sharp decline in the past 60 years as much of the once vast arid habitat has been converted to other uses.

Although data on this species is limited, the information above indicates that these activities are significant threats to the species' habitat. We generally find that the information presented by the petitioner appears to be reliable in regard to the amount of habitat modification and alteration due to road construction that has occurred within the range of the Honduran emerald hummingbird. In addition, the information presented in the petition, as well as the information in our files, relating to threats to the Honduran emerald hummingbird and its habitat from dry forest clearing for cattle grazing, agricultural development, road construction, and residential development appears to be reliable and substantial. Based on the information presented in the petition and available in our files, we find that the petition presents substantial information that may that listing the Honduran emerald hummingbird as a threatened or endangered species may be warranted due to present or threatened destruction, modification, or curtailment of its habitat or range.

#### *B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

The petition does not provide information or list any threats to the Honduran emerald hummingbird from overutilization for commercial, recreational, scientific, or educational purposes. Since its listing under CITES Appendix II in 1987, only two CITES-permitted international transactions of the Honduran emerald hummingbird are known, those being from Germany to the United States in 1996 (UNEP-WCMC 2009b). Therefore, we believe that international trade is not a factor influencing the species' status in the wild. In addition, we are unaware of any other information currently available that indicates that collection or overutilization of the Honduran emerald hummingbird for commercial, recreation, scientific, or education purposes has occurred. As a result, we have determined that the petition does not present substantial information that the Honduran emerald hummingbird may be threatened by overutilization for commercial, recreational, scientific, or educational purposes. However, we will evaluate all factors, including potential threats from overutilization for

commercial, recreational, scientific, or educational purposes, when we conduct our status review.

#### *C. Disease or Predation*

The petition does not provide information or indicate that there are any threats to the Honduran emerald hummingbird from disease or predation. The Intergovernmental Panel on Climate Change (2007, p. 51) suggests that the distribution of some disease vectors may change as a result of climate change. However, the Service has no information at this time to suggest that any specific diseases are or may become problematic to the Honduran emerald hummingbird. As a result, we have determined that the petition does not present substantial information that the Honduran emerald hummingbird may be threatened by disease or predation. However, we will evaluate all factors, including threats from disease and predation, when we conduct our status review.

#### *D. The Inadequacy of Existing Regulatory Mechanisms*

The petition provides little information regarding the inadequacy of existing regulatory mechanisms. The petition mentions a prohibition of livestock grazing in some areas to protect Honduran emerald hummingbird habitat. The petition does not provide information on who established the prohibition or exact locations and extent of the prohibition. The petition does not provide information on current laws or policies that would serve to protect the Honduran emerald hummingbird.

The Honduran emerald hummingbird is listed on Appendix II of CITES. Appendix II lists species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled. CITES records indicate that two individuals were traded from Germany to the United States in 1996. CITES only regulates international trade of species listed on CITES Appendices and does not regulate the species within in its country of origin. Due to the apparent very limited international trade in this species, we do not believe that trade and the regulations governing international trade pose a threat to this species. Based on the petition and the information in our files, we have determined that the petition does not present substantial information that the Honduran emerald hummingbird may be threatened by inadequacy of existing regulatory mechanisms. However, we will evaluate all factors, including the inadequacy of

existing regulatory mechanisms, when we conduct our status review.

#### *E. Other Natural or Manmade Factors Affecting Continued Existence*

The petitioners point out that the small population size increases the species' risk of extinction and assert three reasons why this is a threat to this species:

(1) Small, declining populations are less able to sustain stochastic (random) events such as fires and severe storm events;

(2) Genetic bottlenecks (dramatic reductions in population and thus of genetic variability) reduce the reproductive fitness of small populations, which cause a drop in the species reproduction rate; and

(3) fragmented habitat patches may lack all of the resources the species needs to sustain a viable population, which in turn reduces the birds' ability to locate needed resources.

Due to the factors above, the petitioners suggested that stochastic events may push a small population past a threshold that causes extinction despite the presence of suitable habitat.

Because small populations may be vulnerable to single event occurrences, as suggested in the petition, it is important to have information on how likely it is such an event may occur (such as referencing historical frequency of that event), whether the specific event might impact the species (for example, whether habitat fragmentation would affect the species), what form that impact would take and by what mechanism it might affect the species (in other words, what specific life history function, habitat requirement, or other need of the species might be impacted and how), and whether the possible impact would likely result in a significant threat to the species (to what extent might the event be a negative impact on the species).

In order to determine that there is substantial information that the species may be in danger of extinction now or in the foreseeable future due to small population sizes and stochastic events, information in the petition or in our files should be specific to the species and should reasonably suggest that these factors may be operative threats that act on the species to the point that it may warrant protection under the Act. Broad statements about a generalized threat to species with small populations do not constitute substantial information that listing may be warranted. Rather, to raise a substantial question as to whether a species may be threatened with extinction now or in the foreseeable future, information specific

to the species and situation (such as life-history characteristics and measures of rarity) should be linked to potential threats. It is not sufficient to say that because a species is rare or because it has a small population, it is threatened by general stochastic events such as natural catastrophes. There must be some likely stressor acting on the species or its habitat that may affect a species' status such that the species may be threatened now or within the foreseeable future.

Information provided with the petition, as well as information in our files, indicates that the population of the Honduran emerald hummingbird is small and declining (BLI 2009, p. 2; Stattersfield and Capper 2000, p. 311). In 2007, the information available indicated that this species has experienced a population decline since the 1960s and consisted of fewer than 2,000 individuals distributed within two, and possibly a third, valleys (Anderson and Hyman 2007, p. 6; BLI 2008, p. 2). In 2008, Birdlife International stated that the population estimate was between 250 and 999 birds and in decline, within an estimated range of 12 km<sup>2</sup> (2965 ac) (p. 2). The 2008 IUCN Red List of Threatened Species also stated that the population trend of the species is decreasing (p. 2). In addition, the CITES species database reports that the range of the Honduran emerald hummingbird is declining (UNEP-WCMC 2009a, p. 2).

Species tend to have a higher risk of extinction if they occupy a small geographic range, occur at low density, occupy a high trophic level (position in food chain), and exhibit low reproductive rates (Purvis *et al.* 2000, p. 1949). Small populations can be more affected by demographic stochasticity, local catastrophes, and inbreeding (Pimm *et al.* 1988, pp. 757, 773-775). The small, declining population makes the species vulnerable to genetic stochasticity due to inbreeding depression and genetic drift (random changes in gene frequency). This, in turn, compromises a species' ability to adapt genetically to changing environments (Frankham 1996, p. 1507) and reduces fitness, and increases extinction risk (Reed and Frankham 2003, pp. 233-234).

The petitioner provided information to indicate that the range and abundance of the hummingbird has been significantly curtailed. Because the Honduran emerald hummingbird is currently found in only two (and possibly a third) valleys, and has undergone a restriction in range and a decline in population size, any threats to the species are further magnified.

Limited-range species are susceptible to extirpation including when a species' remaining population is already small or its distribution is too fragmented. The species may no longer be demographically or genetically viable (Harris and Pimm 2004, p. 1612-1613). Secondary impacts that are associated with activities that fragment the remaining tracks of suitable habitat used by the Honduran emerald hummingbird include the loss of genetic variability. In addition, while this hummingbird may be tolerant of fragmented forests or other disturbed sites, these areas may not represent optimal conditions for the species. As a result of these impacts, there is often a time lag between the initial conversion or degradation of suitable habitats and the extinction of endemic bird populations (Brooks *et al.* 1999a, p. 1; Brooks *et al.* 1999b, p. 1140). Even when potentially occupied sites may be formally protected (see Factor D), the remaining fragments of forested habitat will likely undergo further degradation due to their altered dynamics and isolation (through infestation of gap-opportunistic species, which alter forest structure and decrease in gene flow between populations. (Tabanez and Viana 2000, pp. 929-932). Therefore, even without further habitat loss or degradation, the Honduran emerald hummingbird remains at risk from past impacts to its suitable habitats.

Due to its small, recently declining population, the decreased availability of suitable habitat, the fragmentation of suitable habitat, and the likelihood that there are only two or three remaining populations, the species may be vulnerable to genetic problems such as inbreeding depression. On the basis of our evaluation of the material provided in the petition and available in our files, the species does appear to have a small and declining population due to few recorded individuals, specific habitat requirements, and the severe reduction in its distribution and amount and extent of suitable habitat. Therefore, we find that the petition presents substantial evidence indicating that other natural or manmade factors affecting continued existence such as the decrease in genetic variability may be a threat to the species. We will evaluate this factor further when we conduct our status review.

#### **Finding**

Section 4(b)(3)(A) of the Act requires that we make a finding whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information available in our files. 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 the finding promptly in the **Federal Register**.

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents “substantial scientific and commercial information,” which is interpreted in our regulations as “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)). We reviewed the petition, supporting information provided by the petitioner, and information in our files, and we evaluated that information to determine whether the sources cited support the claims made in the petition.

The petition and supporting information identified factors affecting the Honduran emerald hummingbird including land clearing for cattle grazing and agriculture, road construction and expansion, residential development (Factor A) and loss of genetic variability due to a small and declining population (Factor E). On the basis of information provided in the petition and other information in our files, we have determined that the petition presents substantial scientific or commercial information that listing the Honduran emerald hummingbird under the Act may be warranted. Therefore, we are initiating a status review to determine if listing the species is warranted. During the status review, we will consider threats to the hummingbird under all of the listing factors above. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species.

The “substantial information” standard for a 90-day finding differs from the Act’s “best scientific and commercial data” standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which we would conduct following a substantial 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not

mean that the 12-month finding will result in a warranted finding.

#### References Cited

A complete list of all references cited in this finding is available on the Internet at <http://www.regulations.gov> or upon request from the Endangered Species Program, Branch of Listing, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

#### Author

The primary authors of this notice are staff members of the Endangered Species Program, U.S. Fish and Wildlife Service.

#### Authority

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

Dated: June 9, 2010

**Jeffrey L. Underwood,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2010-15225 Filed 6-22-10; 8:45 am]

**BILLING CODE 4310-55-S**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R3-ES-2010-0042]  
[MO-92210-0-0009-B4]

RIN 1018-AW90

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Tumbling Creek Cavesnail

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the Tumbling Creek cavesnail (*Antrobia culveri*) under the Endangered Species Act of 1973, as amended (Act). We propose to designate as critical habitat approximately 25 acres (10.12 hectares) in one unit. The proposed critical habitat encompasses Tumbling Creek and associated springs, located near Protém, in Taney County, Missouri.

**DATES:** We will consider comments from all interested parties until August 23, 2010. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by August 9, 2010. Please note that if you are using the *Federal eRulemaking Portal* (see **ADDRESSES** section, below) the deadline

for submitting an electronic comment is 11:59 p.m. Eastern Daylight Savings Time on August 23, 2010.

**ADDRESSES:** You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. In the box that reads “Enter Keyword or ID,” enter the Docket number for this finding, which is FWS-R3-ES-2010-0042. Check the box that reads “Open for Comment/ Submission,” and then click the Search button. You should then see an icon that reads “Submit a Comment.” Please ensure that you have found the correct rulemaking before submitting your comment.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R3-ES-2010-0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

#### FOR FURTHER INFORMATION CONTACT:

Charles M. Scott, Field Supervisor, Columbia Fish and Wildlife Office, U.S. Fish and Wildlife Service, 101 Park DeVile Dr., Suite A, Columbia, MO 65203; telephone: 573-234-2132; facsimile: 573-234-2181. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or suggestions from governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

- (1) Population survey results for the Tumbling Creek cavesnail, as well as any studies that may show distribution, status, population size, or population trends, as they may pertain to critical habitat for the species.

- (2) Pertinent aspects of life history, ecology, and habitat use of the Tumbling Creek cavesnail.

- (3) Our “prudency” evaluation for the designation of critical habitat for Tumbling Creek cavesnail.

- (4) The reasons why we should or should not designate habitat as “critical