

constitute the release of information for purposes of the Freedom of Information Act (5 U.S.C. 552).

(f) The contracting officer shall attach a cover page bearing the GOVERNMENT NOTICE FOR HANDLING PROPOSALS, as stated in FAR 15.413-2(e), to each proposal upon receipt. The last sentence of the notice shall cite 48 CFR 515.413-2 as the implementing regulation.

PART 552—[AMENDED]

5. Section 552.203-74 is added to read as follows:

552.203-74 Restriction on Disclosure of Information.

As prescribed in 503.104-10(d), insert the following clause:

Restriction on Disclosure of Information (XXX 1993)

(a) The Contractor agrees, in the performance of this contract, to keep all information contained in source documents or other media furnished by the Government in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the contractor's possession, to those employees needing such information to perform the work provided herein, i.e., on a "need to know" basis. The Contractor agrees to immediately notify, in writing, the Contracting Officer named herein in the event that the Contractor determines or has reason to suspect a breach of this requirement.

(b) The Contractor agrees not to disclose any information concerning the work under this contract to any persons or individual unless prior written approval is obtained from the Contracting Officer. The Contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

(c) Any unauthorized disclosure of information may result in termination of this contract for default

(End of Clause)

Dated: March 19, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 1-Year Petition Finding on the Western Pond Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a finding on a petition to list the western pond turtle (*Clemmys marmorata*) under the Endangered Species Act of 1973, as amended (Act). Historically, the western pond turtle occurred in a wide variety of wetland habitats west of the crest of the Sierra Nevada or Cascades mountain ranges from northern Baja California, Mexico, to the Puget Sound in Washington. The western pond turtle remains in the vast majority of its historical range, although populations may be adversely affected by a number of anthropogenic factors (e.g., various water projects, grazing, vehicle related mortality, indiscriminate vandalism). The Service finds that the western pond turtle does not meet either the definition of an endangered or a threatened species at the present time.

DATES: The finding announced in this document was made on August 4, 1993. Comments from all interested parties will be accepted until further notice.

ADDRESSES: Comments and materials concerning this finding should be sent the U.S. Fish and Wildlife Service, Field Supervisor, Sacramento Field Office, 2800 Cottage Way Room E-1803, Sacramento, California 95825; or Field Supervisor, Portland Field Office, 2600 SE. 98th Avenue, suite 100, Portland, Oregon 97266; or Field Supervisor, Olympia Field Office, 3704 Griffin Lane SE., suite 102, Olympia, Washington 98501-2192.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Chief, Division of Listing, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181 (503/231-6131).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information a finding be made within 12 months of the date of receipt of the petition on

whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals. Such 12-month findings are to be published promptly in the Federal Register.

In a petition dated January 15, 1992, and received by the Service on January 29, 1992, the Service was requested by Mr. Dan Holland and Drs. Mark Jennings and Marc Hayes to list the western pond turtle (*Clemmys marmorata*) as an endangered or threatened species. The petition specified endangered or threatened status in portions of its range. The petition cited numerous threats to this taxa, including: (1) Loss and degradation of wetland and terrestrial habitat, (2) predation by introduced species, (3) overexploitation, (4) habitat fragmentation, (5) drought, and (6) various other factors. The Service made an administrative 90-day finding on August 12, 1992, that concluded that the petition contained substantial information indicating that the requested action may be warranted. An announcement of this finding was published in the Federal Register on October 5, 1992 (57 FR 45761).

The western pond turtle inhabits fresh or brackish, permanent and intermittent water bodies from sea level to about 6,000 feet (Bury 1970, Holland 1991b, Holland 1992, Stebbins 1966); the majority of individuals occur below 3,500 feet, with the upper elevational limits lowering as the species progresses northward in its range. The pond turtle uses adjacent uplands for nesting. Hatchlings and juveniles require more specialized habitats (i.e., shallow water with abundant emergent vegetation). The western pond turtle feeds primarily on small aquatic invertebrates, but is omnivorous in its overall food habits (Holland 1991b).

The western pond turtle includes two described subspecies (Seeliger 1945): The northwestern pond turtle (*Clemmys marmorata marmorata*), which occurs from the Sacramento Valley and coastal drainages of California northward from the San Francisco Bay area to the Puget Sound area of Washington; and the southwestern pond turtle (*Clemmys m. pallida*), which is found from the Monterey Bay area south in the coastal region to northwestern Baja California Norte, Mexico, including the Mojave River. The south San Francisco Bay area and the San Joaquin Valley is described by Seeliger (1945) as a zone of intergradation between the two subspecies.

Holland (1992), however, asserted in his dissertation that *Clemmys*

marmorata (sensu lato) is in actuality a three species complex consisting of *C. marmorata* (sensu stricto), which has a range that approximates that of *C. marmorata marmorata* as delimited by Seeliger (1945); *Clemmys pallida*, which has a range that approximates that of *C. marmorata pallida* as delimited by Seeliger (1945); and *Clemmys* sp. nov., a new species restricted to the Columbia River. Though Holland (1992) noted that his taxonomic conclusions correspond well to that developed by Seeliger 48 years ago "using largely subjective evaluations," some ambiguity seems to remain regarding the appropriate assignment of a few populations in central California. Moreover, Bury and Holland (in press) referred to Holland's "species" as "evolution groups" or "forms." Regardless, the Service continues to recognize two subspecies because Holland's dissertation is unpublished.

The western pond turtle occurs throughout roughly 90 percent of its historical geographic range (Holland 1991b, 1993), west of the crest of the Sierra Nevada or Cascade mountain ranges from Baja California, Mexico to the Puget Sound in Washington. It has been extirpated from a number of areas, or reduced to low numbers in some localities, including the type locality in Puget Sound, many sites in southern California, and the southern San Joaquin Valley in central California.

Several factors may negatively impact western pond turtle populations in various degrees in certain portions of their range. Most of the information available to the Service on these threats is anecdotal, and generally the Service lacks consistent information on the long-term effects of these activities to pond turtles on a rangewide basis. For example, wetland habitats have been and continue to be altered; however, western pond turtles occur in altered habitats such as sewage treatment ponds, irrigation canals, reservoirs, and stockponds. Disease substantially reduced one population in Washington, but has not been reported in other populations. Predation affects most populations to some degree; however, the Service lacks information on whether predation is a threat sufficient to warrant listing as an endangered or threatened species. Other factors such as contaminant spills, grazing, off-road vehicle use are also highly localized and do not threaten the species throughout a significant portion of its range. The

recent drought has reduced some turtle populations; however, on a long-term basis this reduction likely is not significant. The petitioner seemed especially concerned about a lack of recruitment into many populations; however, that conclusion has been challenged by other experts in the field (e.g., Bury 1993).

The species remains throughout 90 percent of its historical range; only low to moderate threats can be identified for about 60 percent of the species' range, and moderate to high threats have been identified for the remaining 40 percent of the species' range (Holland 1991b). Holland identified moderate threats for about 50 percent of the range of the southwestern pond turtle. As such, the overall extent of impacts on the western pond turtle has not been adequately demonstrated to represent significant threats to the continued existence of the species.

In addition, at least a few "viable" populations containing 30 or more individuals have been found throughout most of the range of the turtle (Holland 1991b, *in litt.* 1993). For example, south of the Santa Clara River, over 50 sites remain, and 8 contain viable populations with 30 to 500 individuals. In Ventura and Santa Barbara Counties, 25 or 30 viable populations remain (Sweet *in litt.* as cited by Holland *in litt.* 1993). Approximately 13 viable populations remain along the central coast of California. In the Central Valley of California, at least 2 sites with more than 30 individuals remain. In the north coast region of California, little information is available; however, turtles remain widespread. In the Klamath drainage, 3,000 turtles remain at 1 site. Another site along the Trinity River contains 1,000 turtles.

Wolfer (as cited by Holland 1992) reported a population that contained at least 52 turtles along the Rogue River drainage of Oregon. At least 2 sites in the Umpqua drainage contained more than 30 turtles (Holland 1993). In Oregon, Holland (Holland 1992) generally found low numbers of turtles. For example, turtles were seen at 5 of 54 sites along the Rogue River drainage, and the maximum number of turtles at any site was 7 (Holland 1992). However, the survey effort did not seem to have been as extensive for this effort as was completed for other portions of the turtle's range. In addition, Holland (1992) does not indicate if a site represents a discreet population, or a

point along a drainage (that is contiguous with other populations) for the Rogue, Umpqua, or Willamette drainages. In Washington, the pond turtle occurs along the Columbia Gorge and in low numbers in the Puget Sound. These numbers suggest that viable populations remain throughout most of the range of the pond turtle, and that, absent evidence of threats to these populations, the pond turtle is not in danger of extinction or likely to become so in the near future.

On the basis of the best available scientific and commercial information, the Service finds that listing the western pond turtle is not warranted at the present time because the taxon presently is not in danger of extinction or likely to become so in the foreseeable future. The Service will reclassify or maintain the two recognized subspecies of the western pond turtle as category 2 candidates for listing, and will continue to seek information on the status of the pond turtle. Category 2 candidates are those for which information now in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules. If information becomes available indicating that listing as endangered or threatened is appropriate, the Service would propose to list the western pond turtle. Furthermore, the Service retains the option of proposing a subspecies or vertebrate population segment should information become available indicating that such an action is appropriate and warranted.

References

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

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: August 4, 1993.

Richard N. Smith,
Acting Director, U.S. Fish and Wildlife Service.

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