

Dated: March 12, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-day Finding on a Petition To Delist *Tuctoria mucronata* (Solano grass)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to remove *Tuctoria mucronata* (Solano grass), throughout its range, from the Federal list of threatened and endangered species, pursuant to the Endangered Species Act of 1973, as amended (ESA). We reviewed the petition and supporting documentation, information in our files, and other available information, and find that there is not substantial information indicating that delisting of *T. mucronata* may be warranted. We will not be initiating a further status review in response to the petition to delist. We ask the public to submit to us any new information that becomes available concerning the status of this species. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on February 5, 2003. You may submit new information concerning this species for our consideration at any time.

ADDRESSES: Data, information, written comments and materials, or questions concerning this petition and finding should be submitted to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825. The petition finding and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller, Botanist, at the above address, or telephone 916/414-6645.

SUPPLEMENTARY INFORMATION:

Background

We listed *Tuctoria mucronata* as an endangered species in 1978 (43 FR

44810). At the time, *T. macronata* was known to exist only as a single population found at its type locality (the location where it was first discovered) at Olcott Lake, in Solano County, CA. We proposed critical habitat for *T. mucronata*, and 10 other vernal pool plant species, on September 24, 2002 (67 FR 59884). *Tuctoria mucronata* is an obligate vernal pool annual species.

The petition to delist *Tuctoria mucronata*, dated February 3, 1997, was submitted by Rob Gordon, representing the National Wilderness Institute. The petition requested we remove *T. mucronata* from the List of Endangered and Threatened Wildlife and Plants based upon data error.

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires that we make a finding on 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 base the finding on all information available to us at the time the finding is made. To the maximum extent practicable, we make this finding within 90 days of receipt of the petition, and promptly publish notice of the finding in the **Federal Register**. If we find that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated (50 CFR 424.14).

The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. We may delist a species only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened. Delisting may be warranted as a result of: (1) Extinction; (2) recovery; or (3) a determination that the original data used for classification of the species as endangered or threatened were in error.

In response to the petitioner's request to delist *Tuctoria mucronata*, we sent a letter to the petitioner on June 29, 1998, explaining our inability to act upon the petition due to low priorities assigned to delisting petitions in accordance with our Listing Priority Guidance for Fiscal Year 1997, which was published in the **Federal Register** on December 5, 1996 (61 FR 64475). That guidance identified delisting activities as the lowest priority (Tier 4). Due to the large number of higher priority listing actions and a limited listing budget, we did not conduct any delisting activities during the Fiscal Year 1997. On May 8, 1998, we published the Listing Priority Guidance for Fiscal Years 1998-1999 in the **Federal Register** (63 FR 25502) and, again, placed delisting activities at the

bottom of our priority list. Since 1998, higher priority work has not allowed us to examine or act upon the petition to delist *T. mucronata*.

Discussion

The petition cited our 1993 Fiscal Year Budget Justification as its supporting information that the species should be removed from the List of Endangered and Threatened Wildlife and Plants based on data error. The 1993 Fiscal Year Budget Justification stated that we would evaluate those species identified as approaching the majority of their recovery objectives. *Tuctoria mucronata* was identified as one of 33 species approaching its recovery objectives, as found in our December 1990 Report to Congress: Endangered and Threatened Species Recovery Program. The 1993 Fiscal Year Budget Justification identified the need to evaluate those species, including *T. mucronata*, and determine the appropriateness of delisting them based on status surveys.

Our Delta Green Ground Beetle and Solano Grass Recovery Plan (Service 1985) states that recovery will be achieved by protecting the known population of the species and by establishing three additional, secure populations within the two protected large vernal lakes and their watersheds in the vicinity of the Jepson Prairie Preserve. Recovery would be achieved when these populations are secure and sustainable for a period of 15 consecutive years. Given that *Tuctoria mucronata* was last seen in 1993 at its original location when four individual plants were present, we are concerned that the population is possibly extirpated from its type locality. A second population of *T. mucronata* was discovered on private lands in 1985, and another population of *T. mucronata* was discovered in 1993 on a former U.S. Air Force Base communication facility that is being transferred to the Yolo County Parks Department. Several thousand individual plants of *T. mucronata* were seen at this site in 2000. We do not have sufficient additional populations protected in enough preserves specifically established for protection and management of the species or protected under conservation easements and managed for the conservation of the species to meet our recovery objectives.

The petitioner also stated that "other new scientific information gathered since the time of listing which is in possession of the Service," supports delisting due to data error. However, the petition did not identify this new scientific information. In addition, the