

determination and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the deadline for a final determination of whether to list *Lepidium papilliferum* (slickspot peppergrass) and reopening of the comment period on the proposed rule to list the species. We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing rule, making it necessary for us to solicit additional information by reopening the public comment period. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule.

DATES: We will accept comments and information pertaining to the proposed rule through August 18, 2003.

Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The date for submitting our final determination on the proposed listing to the **Federal Register** is extended to January 15, 2004.

ADDRESSES: Copies of the draft proposal are available on the Internet at: <http://endangered.fws.gov/frpubs/02fedreg.htm> or by writing to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709.

If you wish to comment, you may submit written comments and information to the Supervisor at the address above. You may also send comments by electronic mail (e-mail) to: fw1srbocomment@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Supervisor, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709 (telephone 208/378-5243; facsimile 208/378-5262).

SUPPLEMENTARY INFORMATION:

Background

Lepidium papilliferum is a herbaceous annual or biennial plant that occurs in sagebrush-steppe habitats. This species is found along the Snake River Plain and Owyhee Plateau in Ada,

Canyon, Gem, Elmore, Payette, and Owyhee Counties, Idaho. *Lepidium papilliferum* is threatened by a variety of activities including urbanization, gravel mining, irrigated agriculture, habitat degradation due to cattle and sheep grazing, fire and fire rehabilitation activities, and continued invasion of habitat by non-native plant species. For further information regarding background biological information, previous Federal actions, factors affecting the species, and conservation measures available to *Lepidium papilliferum*, please refer to our proposed rule to list the species, which was published on July 15, 2002 (67 FR 46441).

Previous Federal Action

On April 9, 2001, we received a petition dated April 4, 2001, from the Committee for Idaho's High Desert, the Western Watersheds Project, The Wilderness Society, and the Idaho Conservation League (Petitioners) requesting emergency listing of *Lepidium papilliferum* as threatened or endangered. We responded to the Petitioners with a letter dated April 27, 2001, stating that the species was already identified as a candidate, and we do not publish petition findings on candidate species since we have already determined that their listing is warranted (Service, *in litt.* 2001). We also stated that our initial review of their petition did not indicate an emergency action was warranted.

On November 6, 2001, the Petitioners filed a complaint for our failure to emergency list *Lepidium papilliferum* as threatened or endangered, and our failure to proceed with a proposed rule to list the species as endangered or threatened on a non-emergency basis (*Committee for Idaho's High Desert and Western Watersheds Project v. Anne Badgley, et al.* (Case No. CV 01-1641-AS)). On April 2, 2002, based on a settlement agreement with the Petitioners, the court signed an order requiring us to submit for publication in the **Federal Register** a proposal to list the species by July 15, 2002, and a final determination or finding by July 15, 2003.

On July 15, 2002, we published a proposed rule to list *Lepidium papilliferum* as an endangered species (67 FR 46441). During the initial public comment period, which closed on September 13, 2002, we published legal notices in local Idaho newspapers and held hearings. On September 25, 2002, we reopened the comment period for an additional 60 days to allow additional time for all interested parties to submit written comments on the proposal (67

FR 60206). The second comment period closed on November 25, 2002.

Independent Scientific Review

In accordance with our July 1, 1994, Interagency Cooperative Policy on Peer Review (59 FR 34270), we requested the expert opinion of 12 independent scientists regarding the pertinent scientific or commercial data and assumptions concerning biological and ecological information used in the proposed rule. The purpose of such a review is to ensure that the listing decision is based on scientifically sound data, assumptions and analyses, including input of appropriate experts and specialists. The 12 reviewers we asked to review the proposed rule were selected based on their expertise on *L. papilliferum* natural history and ecology. We requested that they review the proposed rule and provide any relevant scientific data relating to taxonomy, distribution, population status, or the supporting biological and ecological data used in our analyses of the listing factors.

Six of the 12 scientific reviewers provided comment to us. One did so as part of the official comments of the U.S. Air Force. Five peer reviewers supported the sufficiency and the accuracy of the available data relevant to the proposed rule and one, through the U.S. Air Force comments, did not. The U.S. Air Force comments, dated September 11, 2002, were a compilation of reviews conducted by five Ph.D. scientists and one research agronomist. It was, by far, the most detailed and comprehensive review of the proposed rule conducted by any of the peer reviewers. The areas of substantial disagreement among the reviewers that were raised by the U.S. Air Force comments center around the sufficiency or accuracy of data used to represent population status and trends of *L. papilliferum*, and the likelihood of threats causing further declines of the species.

For example, the available scientific data on population status and trends since 1994 shows an increase from 38 to 75 in the number of known element occurrences (specific geographical location containing a species of concern) of *L. papilliferum*. The total area of all combined existing element occurrences within the known range of this species has nearly doubled since 1994. The total acreage of slickspots known to be occupied by *L. papilliferum* within the 20,500-acre area across the range of the species is not known. While the data also shows that 13 occurrences have become extinct since 1911 and 5 previously reported