



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FF09E21000 FXES1111090FEDR 234]

#### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Five Species

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

**ACTION:** Notification of petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on petitions to add five species to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions to list the bleached sandhill skipper (*Polites sabuleti sinemaculata*), blue tree monitor lizard (*Varanus macraei*), Bornean earless monitor lizard (*Lanthanotus borneensis*), and pinyon jay (*Gymnorhinus cyanocephalus*) present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we are initiating status reviews of these species to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we request scientific and commercial data and other information regarding these species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act. We further find that the petition to list the least chub (*Iotichthys phlegethontis*) does not present substantial information indicating the petitioned action may be warranted. Therefore, we are not initiating a status review of the least chub.

**DATES:** These findings were made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the bleached sandhill skipper, blue tree monitor lizard,

Bornean earless monitor lizard, or pinyon jay, or their habitats. Any information we receive during the course of our status reviews will be considered.

**ADDRESSES:** *Supporting documents:* Summaries of the basis for the petition findings contained in this document are available on <https://www.regulations.gov> under the appropriate docket number (see tables under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

*Status reviews:* If you have scientific or commercial data or other information concerning the status of, or threats to, the bleached sandhill skipper, blue tree monitor lizard, Bornean earless monitor lizard, or pinyon jay, or their habitats, please provide those data or information by one of the methods listed below. For the Blue tree monitor and Bornean earless monitor, we specifically request information on: (a) identification of shortcomings in existing regulations that are contributing to population-level effects on the species; and (b) information on any trade in the species, including evidence of trade levels, trends, and patterns, and any changes over time.

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2023-0035 for the bleached sandhill skipper, FWS-HQ-ES-2023-0033 for the blue tree monitor lizard, FWS-HQ-ES-2023-0034 for the Bornean earless monitor lizard, or FWS-R6-ES-2022-0177 for the pinyon jay. Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment.” If your information will fit in the provided comment box, please use this feature of <https://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: [Enter Docket No.; please use FWS-R8-ES-2023-0035 (for the bleached sandhill skipper), FWS-HQ-

ES-2023-0033 (for the blue tree monitor lizard), FWS-HQ-ES-2023-0034 (for the Bornean earless monitor lizard), or FWS-R6-ES-2022-0177 (for the pinyon jay)], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Information Submitted for a Status Review**, below).

#### **FOR FURTHER INFORMATION CONTACT:**

<b>Species common name</b>	<b>Contact person</b>
Bleached sandhill skipper	Sue Cameron, Biologist, Asheville North Carolina Field Office, 828–450–7469, <a href="mailto:susan_cameron@fws.gov">susan_cameron@fws.gov</a>
Blue tree monitor lizard	Demetra Panos, Biologist, Ecological Services Headquarters, 636–346–4900, <a href="mailto:demetra_panos@fws.gov">demetra_panos@fws.gov</a>
Bornean earless monitor lizard	Amanda Hyman, Biologist, Ecological Services Headquarters, 703–358–2480, <a href="mailto:amanda_hyman@fws.gov">amanda_hyman@fws.gov</a>
Pinyon jay	Yvette Converse, Project Leader, Utah Field Office, 801–975–3330; <a href="mailto:yvette_converse@fws.gov">yvette_converse@fws.gov</a>
Least chub	Justin Barrett, Acting Field Supervisor, Reno Fish and Wildlife Field Office, 775–861–6300; <a href="mailto:justin_barrett@fws.gov">justin_barrett@fws.gov</a>

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

#### **SUPPLEMENTARY INFORMATION:**

##### **Information Submitted for a Status Review**

You may submit your comments and materials concerning the status of, or threats to, the bleached sandhill skipper, blue tree monitor lizard, Bornean earless monitor lizard, or pinyon jay, or their habitats, by one of the methods listed above in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Please include sufficient

information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing these findings, will be available for public inspection on <https://www.regulations.gov>.

## **Background**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (i.e., “list” a species), remove a species from the List (i.e., “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (i.e., “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)). A positive 90-day petition finding does not indicate that the petitioned action is

warranted; the finding indicates only that the petitioned action may be warranted and that a full review should occur.

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)).

The five factors are:

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

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

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

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

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the

point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat) are reviewed under the Administrative Procedure Act (5 U.S.C. 551 et seq.) and are not addressed in this finding (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

We note that listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the

Act is met, the Service may exercise its authority to take an emergency listing action at any time and is prepared to do so.

### **Summaries of Petition Findings**

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on <https://www.regulations.gov> under the appropriate docket number.

TABLE 1—INTERNET SEARCH INFORMATION FOR STATUS REVIEWS FOR FOUR SPECIES

Species Common Name	Docket Number	URL to Docket on <a href="https://www.regulations.gov">https://www.regulations.gov</a>
Bleached sandhill skipper	FWS-R8-ES-2023-0035	<a href="https://www.regulations.gov/FWS-R8-ES-2023-0035">https://www.regulations.gov/FWS-R8-ES-2023-0035</a>
Blue tree monitor lizard	FWS-HQ-ES-2023-0033	<a href="https://www.regulations.gov/FWS-HQ-ES-2023-0033">https://www.regulations.gov/FWS-HQ-ES-2023-0033</a>
Bornean earless monitor lizard	FWS-HQ-ES-2023-0034	<a href="https://www.regulations.gov/FWS-HQ-ES-2023-0034">https://www.regulations.gov/FWS-HQ-ES-2023-0034</a>
Pinyon Jay	FWS-R6-ES-2022-0177	<a href="https://www.regulations.gov/FWS-R6-ES-2022-0177">https://www.regulations.gov/FWS-R6-ES-2022-0177</a>

TABLE 2—INTERNET SEARCH INFORMATION FOR NOT-SUBSTANTIAL FINDING FOR LEAST CHUB

Docket Number	URL to Docket on <a href="https://www.regulations.gov">https://www.regulations.gov</a>
FWS-R6-ES-2022-0015	<a href="https://www.regulations.gov/FWS-R6-ES-2022-0015">https://www.regulations.gov/FWS-R6-ES-2022-0015</a>

### *Evaluation of a Petition To List the Bleached Sandhill Skipper*

#### Species and Range

Bleached sandhill skipper (*Polites sabuleti sinemaculata*); Humboldt County, Nevada.

#### Petition History

On October 16, 2022, we received a petition from the Center for Biological Diversity requesting that the bleached sandhill skipper be listed, or emergency listed, as an endangered species or a threatened species and critical habitat be designated for this subspecies under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c).

Listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the Act is met, the Service may exercise that discretion to take an emergency listing action at any time. Therefore, we are considering the October 16, 2022, petition as a petition to list the bleached sandhill skipper. This finding addresses the petition.

#### Finding



We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding geothermal energy production (Factor A) and the inadequacy of existing regulatory mechanisms (Factor D), we find that the petition presents substantial scientific or commercial information indicating that listing the bleached sandhill skipper as an endangered species or a threatened species may be warranted. The petitioners also presented information suggesting grazing, water diversions, and climate change may be threats to the bleached sandhill skipper. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2023-0035 under the Supporting Documents section.

#### *Evaluation of a Petition To List the Blue Tree Monitor Lizard*

##### Species and Range

Blue tree monitor lizard (*Varanus macraei*); Batanta Island and surrounding small offshore islets, Raja Ampat archipelago, West Papua Province, Indonesian New Guinea.

##### Petition History

On April 25, 2022, we received a petition from the Center for Biological Diversity requesting that the blue tree monitor lizard be listed as an endangered species or a threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). The petitioners

additionally requested that the Service immediately protect the blue tree monitor lizard with the emergency listing authority under 16 U.S.C. 1533(b)(7).

Listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the Act is met, the Service may exercise that discretion to take an emergency listing action at any time. Therefore, we are considering the April 25, 2022, petition as a petition to list the blue tree monitor lizard. We are aware of the potential for a rush on trade and are prepared to issue an emergency listing if the standards for emergency listing per section 4(b)(7) of the Act are met. This finding addresses the petition.

#### Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding the international pet trade (Factor B), we find that the petition presents substantial scientific or commercial information indicating that listing the blue tree monitor lizard may be warranted. The petitioners also presented information suggesting habitat loss, disease, and climate change may also be threats to the blue tree monitor lizard. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at <https://www.regulations.gov> under Docket No. FWS-HQ-ES-2023-0033 under the Supporting Documents section.

## *Evaluation of a Petition To List the Bornean Earless Monitor Lizard*

### Species and Range

Bornean earless monitor lizard (*Lanthanotus borneensis*); Sarawak, Malaysia and Kalimantan, Indonesia.

### Petition History

On November 2, 2022, we received a petition from the Center for Biological Diversity requesting that the Bornean earless monitor lizard be emergency listed as an endangered species or a threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c).

Listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the Act is met, the Service may exercise that discretion to take an emergency listing action at any time.

Therefore, we are considering the November 2, 2022, petition as a petition to list the Bornean earless monitor lizard. We are aware of the potential for a rush on trade and are prepared to issue an emergency listing if the standards for emergency listing per section 4(b)(7) of the Act are met. This finding addresses the petition.

### Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding the effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding deforestation of the species' habitat for logging and plantations (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing the Bornean earless monitor lizard as an endangered species or a threatened

species may be warranted. The petitioners also presented information suggesting trade and climate change, including shifting weather regimes and sea level rise, may be threats to the Bornean earless monitor lizard. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at <https://www.regulations.gov> under Docket No. FWS-HQ-ES-2023-0034 under the Supporting Documents section.

### *Evaluation of a Petition To List the Pinyon Jay*

#### Species and Range

The pinyon jay (*Gymnorhinus cyanocephalus*); Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Utah, and Wyoming, and Baja California, Mexico.

#### Petition History

On April 25, 2022, we received a petition from Defenders of Wildlife requesting that pinyon jay be listed as an endangered species or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

#### Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding adverse habitat treatments in piñon-juniper woodlands (Factor

A), increased wildfire frequency (Factor A), invasive species (Factor A), inadequacy of existing regulatory mechanisms (Factor D), and climate change (Factor E), we find that the petition presents substantial scientific or commercial information indicating that the petitioned action to list the pinyon jay as an endangered or threatened species may be warranted. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific and commercial information when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at <https://www.regulations.gov> under Docket No. FWS-R6-ES-2022-0177 under the Supporting Documents section.

#### *Evaluation of a Petition To List the Least Chub*

##### Species and Range

Least chub (*Iotichthys phlegethontis*); Utah.

##### Petition History

On September 30, 2021, we received a petition from the Center for Biological Diversity requesting that the least chub be listed as an endangered species or a threatened species and critical habitat be designated for the species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

##### Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding the individual and cumulative effects of threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition, sources cited in the petition, and other readily available information, we find that

the petition does not provide substantial scientific or commercial information indicating that listing the least chub as an endangered or a threatened species may be warranted. We are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**, above).

The basis for our finding on this petition, and other information regarding our review of the petition can be found at [https:// www.regulations.gov](https://www.regulations.gov) under Docket No. FWS-R6-ES-2022-0015 under the Supporting Documents section.

### **Conclusion**

On the basis of our evaluation of the information presented in the petitions under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for the bleached sandhill skipper, blue tree monitor lizard, Bornean earless monitor lizard, and pinyon jay present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species. In addition, we have determined that the petition summarized above for the least chub does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. We are, therefore, not initiating a status review for the least chub in response to the petition.

### **Authors**

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

### **Authority**

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

**Wendi Weber,**

*Acting Director,*

*U.S. Fish and Wildlife Service.*

[FR Doc. 2023-17726 Filed: 8/16/2023 8:45 am; Publication Date: 8/17/2023]