



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Post Office Box 1306
Albuquerque, New Mexico 87103



In Reply Refer To:
FWS/R2/ARD-ES/049947

DEC 01 2011

Mr. Bill Bunch
Save Our Springs Alliance
P.O. Box 684881
Austin, Texas 78768

Dear Mr. Bunch:

This letter is in regard to your petition dated September 30, 2010, which requested that the U.S. Fish and Wildlife Service (Service) list two distinct population segments of the Jollyville Plateau salamander (*Eurycea tonkawae*) as threatened or endangered pursuant to the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. Your petition was received on September 30, 2010.

Under the provisions of section 4 of the Act, we must first make an initial finding as to whether or not a petition to add a species to the endangered species list presents substantial information indicating that the requested action may be warranted. Section 4(b)(3)(A) of the Act provides that, to the maximum extent practicable, this finding be made within 90 days. If this initial finding concludes that the petition presents substantial information indicating that the requested action may be warranted, then section 4(b)(3)(B) gives the Service 1 year from the date the petition was received to either: decide that the petitioned action is not warranted; decide that the petitioned action is warranted, but precluded; or decide that the petitioned action is warranted, and promptly publish a proposed rule. Please note that emergency listing a species is not a petitionable action under the Administrative Procedure Act or the Act; therefore we treat a petition requesting emergency listing solely as a petition to list a species under the Act.

While we have not made a decision on whether the petition presents substantial information that the petition action may be warranted, we have looked at the immediacy of possible threats to the species to determine if emergency listing may be necessary at this time.

Mr. Bill Bunch

2



Our initial review of your petition does not indicate that an emergency situation exists. However, if at any time conditions change and we determine emergency listing is necessary, an emergency rule may be developed.

We are required to complete a proposed listing rule for this species in Fiscal Year 2012. We intend to evaluate the petitioned actions through the rulemaking process.

We also acknowledge receipt of your letter dated September 9, 2010, providing a 60-day notice of intent to sue under the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) with regard to the outstanding 90-day finding for this species. As stated above, emergency listing a species is not a petitionable action and we are currently working on a listing rule for this species.

If you have any questions concerning this matter, please contact Michelle Shaughnessy, Assistant Regional Director for Ecological Services, at 505-248-6671.

Sincerely,

Regional Director