

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[FWS-R6-ES-2009-0025; MO 922105 0083 – B2]

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Susan's purse-making caddisfly (*Ochrotrichia susanae*) as Threatened or Endangered****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Susan's purse-making caddisfly (*Ochrotrichia susanae*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the Susan's purse-making caddisfly may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species to determine if listing the species is warranted. To ensure that the review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species.

**DATES:** We made the finding announced in this document on July 8, 2009. To allow us adequate time to conduct this review, we request that we receive data and information on or before September 8, 2009.

**ADDRESSES:** You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for docket FWS-R6-ES-2009-0025 and follow the instructions for submitting comments.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R6-ES-2009-0025; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Patricia S. Gelatt, Western Colorado Supervisor, Western Colorado Field Office, 764 Horizon Drive, Building B,

Grand Junction, CO 81506-3946, by telephone (970-243-2778, extension 29), or by facsimile (970-245-6933). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Information Solicited**

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the Susan's purse-making caddisfly. We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the Susan's purse-making caddisfly. We are seeking information regarding:

(1) The historical and current status and distribution of the Susan's purse-making caddisfly, its biology and ecology, and ongoing conservation measures for the species and its habitat; and

(2) Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

- (a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence and threats to the species or its habitat.

If we determine that listing the Susan's purse-making caddisfly is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the Susan's purse-making caddisfly, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may

require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential to the conservation of the species. Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made "solely on the basis of the best scientific and commercial data available." Based on the status review, we will issue a 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section.

If you submit information via <http://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 personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Western Colorado Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Background**

Section 4(b)(3)(A) of the Act, 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 are to base this finding on

information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a status review of the species.

On July 8, 2008, we received a petition via e-mail from the Xerces Society for Invertebrate Conservation, Dr. Boris C. Kondratieff (Colorado State University), Western Watersheds Project, WildEarth Guardians, and Center for Native Ecosystems requesting that the Susan's purse-making caddisfly be listed as endangered under the Act and critical habitat be designated. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required by 50 CFR 424.14(a). In an August 5, 2008, letter to the petitioners, we responded that we had reviewed the petition and determined that an emergency listing was not necessary. We also stated that due to court orders and settlement agreements for other listing and critical habitat actions, all of our fiscal year 2008 listing funds had been allocated and that further work on the petition would not take place until fiscal year 2009.

### Species Information

The Susan's purse-making caddisfly is a small, hairy, brown caddisfly in the family Hydroptilidae. Adult forewings are 2 millimeters (mm) (0.08 inch (in.)) in length and are dark brown with three transverse silver bands, one each at the wing base, the wing midline, and the wing apex (Flint and Herrmann 1976, p. 894).

The larvae of Hydroptilidae are unusual among the case-making families of Trichoptera in that they are free-living until the final (fifth) larval instar (developmental stage between molts) (Wiggins 1996, p. 72). When the larvae molt to the fifth instar, they develop enlarged abdomens, build purse-shaped cases from silk and sand, and become less active (Wiggins 1996, p. 71). They construct a case which can be portable or cemented to the substrate (Wiggins

1996, p. 71). Larvae in this family are very small but can reach up to 6 mm (0.3 in.) (Wiggins 1996, p. 71). The head and the dorsal surface (top) of all three thoracic segments are dark brown and sclerotized (hardened) (Flint and Herrmann 1976, p. 894). Larval cases are small, flattened, bivalved, and open at each end, similar to other members of the genus *Ochrotrichia*. However, the Susan's purse-making caddisfly larval cases are slightly shorter proportionally and are made from smaller grains of sand (Flint and Herrmann 1976, p. 894). The larvae eventually pupate within the case.

Feeding behavior of the Susan's purse-making caddisfly larvae has not been observed directly, but larvae in this genus generally feed by scraping diatoms from rocks (Wiggins 1996, p. 96). Where the species has been collected, rocks that were thickly covered with larval cases were also associated with heavy growths of filamentous algae and moss (Flint and Herrmann 1976, p. 897).

Adult Trichoptera have reduced mouthparts and lack mandibles, but can ingest liquids. The adult flight period was estimated to be from late June to early August by Flint and Herrmann (1976, p. 897), although adults were collected from mid-April to late July in a later survey (Herrmann *et al.* 1986, p. 433). The Susan's purse-making caddisfly is thought to produce one generation per year (Flint and Herrmann 1976, p. 897).

### Taxonomy

The Susan's purse-making caddisfly was first described by Flint and Herrmann (1976, pp. 894-898) from specimens taken in 1974 at Trout Creek in Chaffee County, Colorado. The genus *Ochrotrichia* is widespread and fairly diverse in North America, with over 50 described species (Wiggins 1996, p. 96). Adults can be distinguished from other species in the genus *Ochrotrichia* based on characteristics of the genitalia.

### Historic and Current Distribution

From 1974 to 1994, the Susan's purse-making caddisfly was only known to exist at and below Trout Creek Spring on U.S. Forest Service (USFS) land in Chaffee County, Colorado. Larvae, pupae, and adults were collected at the spring outfall area and as far downstream in Trout Creek as ~130 meters (m) (430 feet (ft)). Trout Creek Spring is at an elevation of about 2,750 m (9,020 ft). A review of specimens collected in Colorado prior to 1987 determined that the Susan's purse-making caddisfly was still found only in the type locality (location type where

first found) (Herrmann *et al.* 1986, p. 433).

In 1995, specimens were collected at a new site, High Creek Fen in Park County, Colorado, about 27 air kilometers (17 air miles) north of the type locality (Durfee and Polonsky 1995, pp. 1, 5, 7). High Creek Fen is a unique groundwater-fed wetland with high ecological diversity; it is considered a rare type of habitat and the southernmost example of this type of ecosystem in North America (Cooper 1996 pp. 1801, 1808; Rocchio 2005, p. 10; Legg 2007, p. 1). High Creek Fen is primarily owned by The Nature Conservancy (TNC) and the Colorado State Land Board, as well as private landowners.

### Status

The Susan's purse-making caddisfly has a Global Heritage Status Rank of G2, a National Status Rank of N2, and a Colorado State Rank of S2 (NatureServe 2008, pp. 1-4). NatureServe defines the G2 rank as signifying that a species is imperiled (at a high risk of extinction) globally due to a very restricted range, very few populations, steep population declines, or other factors. The N2 and S2 ranks are assigned based upon the same factors, and species in these categories are defined as vulnerable to extirpation nationally or within a state or province. In the case of the Susan's purse-making caddisfly, if it is extirpated in Colorado, it will mean the species is extinct. No population estimates exist for the Susan's purse-making caddisfly, but it is only known to occur at Trout Creek Spring and High Creek Fen.

### Habitat Requirements

Physical and chemical conditions of the type locality spring were assessed when the Susan's purse-making caddisfly was first collected and described (Flint and Herrmann 1976, pp. 894-897). The results suggested that this species has a relatively narrow set of ecological requirements. Water temperatures in the spring habitat were cold and varied little (14.4 to 15.8 °Celsius (°C)) (57.9 to 60.4 °Fahrenheit (°F)). Stream conditions included extremely high levels of dissolved oxygen (at or near 100 percent saturation), as well as high concentrations of dissolved calcium (Ca), magnesium (Mg), and sulfate (SO<sub>4</sub>), which gave the water a higher electrical conductance value than typically seen in most regional streams at the same elevation. It is unknown at this time if this is significant to the species. Overall, larvae appear to inhabit waters in small streams that are cold, well-oxygenated,

highly buffered, and low in trace metals. Larvae and pupae were collected primarily from the sides of rocks in both the spring outfall and the downstream locations, especially in areas directly below small waterfalls in the creek, and were often clustered in clumps that covered the rocks (Flint and Herrmann 1976, pp. 894-897). High Creek Fen appears to have similar water quality as Trout Creek Spring (Durfee and Polonsky 1995, p. 5; Cooper 1996, pp. 801, 803).

#### Five-Factor Evaluation

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species or subspecies may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information regarding the Susan's purse-making caddisfly as presented in the petition is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below. We did not have any information on this species prior to receiving the petition. Most, but not all, references cited in the petition were provided to us by the petitioners. We were able to locate most of the additional references cited in the petition that were not included with the petition.

#### *A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range*

The petitioners state that the primary threats to the survival of the Susan's purse-making caddisfly are impairment and destruction of their restricted habitat due to livestock grazing and logging-related activities. They also point out potential threats to the Susan's purse-making caddisfly by dewatering of its habitat, road sedimentation, and recreation, including hiking, camping, and off-road vehicle (ORV) use.

#### Livestock Grazing

The petitioners believe that the Trout Creek Spring area is being impacted by

grazing and will continue to be impacted by livestock grazing around and upstream of the spring area. The USFS 2007 Draft Environmental Assessment for the Rangeland Allotment Management Planning on the Salida-Leadville-South Park Planning Area (Draft Grazing EA) was cited by the petitioners as documentation for grazing impacts. The petitioners believe the spring and section of Trout Creek occupied by the Susan's purse-making caddisfly are in the Chubb Allotment, but maps in the Draft Grazing EA are unclear. In addition, the spring and occupied section of Trout Creek may be in the Four-mile Allotment. When we conduct a 12-month finding on the Susan's purse-making caddisfly, we will obtain accurate location information from the USFS. If the Susan's purse-making caddisfly is in the Four-mile Allotment, activities within either the Chubb or Four-mile allotment could have impacts on the caddisfly and its habitat through vegetation removal or through erosion and contribution of sediment to the stream. If the Susan's purse-making caddisfly and its habitat are only in the Chubb Allotment, only activities in the Chubb Allotment will affect the caddisfly, since it is upstream of the Four-mile Allotment.

The petitioners cite references stating that livestock grazing creates greater erosion potential due to removal of riparian and upland vegetation, removal of soil litter, increased soil compaction via trampling, and increased area of bare ground (Schultz and Leininger 1990, pp. 297-298; Fleischner 1994, pp. 631-636). The Draft Grazing EA states that upland bench and transition areas on State-owned lands in the Chubb Allotment have higher than expected bare ground with some nonnative plant species and some willow die-back in the riparian zone, possibly due to drought (USFS 2007a, p. 10). The petition states that most of the accessible forage in the Chubb Allotment is in riparian areas. The petitioners also cite references that negative effects of livestock grazing can frequently be magnified in riparian ecosystems, as cattle tend to congregate in these areas for the abundant forage, shade, and water (Roath and Krueger 1982, pp. 101-102; Gillen *et al.* 1984, pp. 551-552; Chaney *et al.* 1993, pp. 6, 15).

The Draft Grazing EA states that in grassland areas within the Four-mile Allotment there is evidence of drought throughout the allotment and high incidence of bare ground (USFS 2007a, p. 11). However, the riparian area in the Four-mile Allotment appears to be in good shape with the exception of

cottonwood regeneration (USFS 2007a, p. 11).

The petitioners believe that continued grazing will likely increase the severity of these identified problems. Bare, compacted soils allow less water infiltration, which generates more surface runoff and can contribute to erosion as well as flooding and stream bank alterations (Abdel-Magid *et al.* 1987, pp. 304-305; Orodho *et al.* 1990, pp. 9-11; Chaney *et al.* 1993, pp. 8-15). Increased erosion leads to higher sediment loads in nearby waters, degrading habitat and increasing water turbidity. The petitioners believe these problems will be exacerbated by removal of riparian vegetation by livestock, as a riparian buffer helps filter overland runoff, slow flooding, and stabilize stream banks. The petition states that areas of bare ground also can facilitate the colonization and spread of invasive species, further reducing riparian vegetation quality. Seeds and propagules of such weeds and noxious species can be introduced by livestock via their fur, hooves, or dung. The petitioners believe that livestock grazing in and upstream of the area around the type of springs utilized by the Susan's purse-making caddisfly has the potential to result in habitat degradation and destruction due to the impacts stated above.

The petitioners believe that the combined impacts of vegetation loss, soil compaction, stream bank destabilization, and increased sedimentation associated with intensive livestock grazing can have a profound effect on aquatic macroinvertebrates. The petition cites a 4-year study, conducted in a mountain stream in northeastern Oregon, which found a dramatic decline in macroinvertebrate abundance and species richness for some taxa, including caddisflies, on grazed versus ungrazed sites (McIver and McInnis 2007, pp. 293, 300-301). The petition also states that a variety of aquatic macroinvertebrate community attributes relating to taxa diversity, community balance, trophic status, and pollution tolerance were strongly negatively impacted by moderate or heavy grazing in small mountain streams in Virginia, compared to lightly grazed or ungrazed control areas (Braccia and Voshell 2007, pp. 196-198).

The petitioners believe that the habitat around Trout Creek Spring is currently subject to reduced riparian vegetation and that continued grazing around Trout Creek Spring will further remove riparian vegetation, reducing the shading canopy and leading to rising water temperatures and lower dissolved oxygen levels. The Susan's purse-

making caddisfly requires cold, fast-running, well-oxygenated water (Flint and Herrmann 1976, p. 897), and the petitioners believe the species is likely to be negatively impacted by decreased riparian vegetation, stream bank destabilization, and increases in water temperature brought on by grazing.

#### Hazardous Fuel Reduction Activities

The petitioners state that the Trout Creek area may be impacted by a logging and hazardous fuel reduction project called the North Trout Creek Forest Health and Hazardous Fuel Reduction Project (Fuel Reduction Project), which will treat approximately 3,500 hectares (ha) (8,700 acres (ac)) with salvage logging, thinning, and prescribed fire to reduce hazardous fuel loads. The North Trout Creek Forest Health and Hazardous Fuel Reduction Final Economic Analysis (Fuel Reduction EA) for the project is dated February 2007 (USFS 2007b, pp. 1-143 + maps), with a Decision Notice and Finding of No Significant Impact signed on April 3, 2007 (USFS 2007c, pp. 1-25). The Salida Ranger district has also recently instituted a new Federal Business Opportunity (FBO) program adjacent to the North Trout Creek project area called Ranch of the Rockies (USFS 2007d, pp. 1-3), which involves 35 ha (86 ac) in the Trout Creek Pass area. This timber sale project involves skidding and yarding live and dead trees and piling the resulting slash. The petitioners state that roads and prescribed fire related to logging and hazardous fuels reduction can impact the Susan's purse-making caddisfly.

The Fuel Reduction EA states that upland areas on bench and transition areas in the Chubb Allotment have localized areas of bare ground with some nonnative plant species and some willow die-back in the riparian zone, possibly due to drought (USFS 2007b, p. 35). The Fuel Reduction EA states that in grassland and in bench and transition areas within the Four-mile Allotment, evidence of drought occurs throughout the allotment and a high incidence of bare ground with invading nonnative plants occurs. The Fuel Reduction EA also states that the riparian area in the Four-mile Allotment appears to be in good shape with the exception of cottonwood regeneration (USFS 2007b, p. 36).

#### Logging Roads

The petitioners cite Cederholm *et al.* (1980, p. 25), who state that disturbance associated with logging road construction and operation is a significant source of sediment load in streams. Similar to the effects of

livestock grazing on aquatic habitats, roads remove vegetation, compact soil (reducing water infiltration), increase erosion and sedimentation, increase the amount and pattern of surface runoff, introduce contaminants, and facilitate the spread of invasive plant species (Anderson 1996, pp. 1-13; Forman and Alexander 1998, pp. 210, 216-221; Jones *et al.* 2000, pp. 77-82; Trombulak and Frissell 2000, pp. 19, 24; Gucinski *et al.* 2001, pp. 12-15, 22-32, 40-42; Angermeier *et al.* 2004, pp. 19-24). The cumulative effects on streams include increases in siltation, increases in nonpoint source pollution, increases in water temperatures, and decreases in dissolved oxygen levels.

The petition states that unpaved roads are a primary source of sediment in forested watersheds (Sugden and Woods 2007, p. 193). The Fuel Reduction EA does not propose to create new permanent roads, but would allow creation of about 10 kilometers (km) (6 miles (mi)) of new temporary roads and reopen 16 km (10 mi) of existing closed roads (USFS 2007b, p. 83). The sediment yield from construction of temporary roads and reopening of closed roads associated with the Fuel Reduction Project is estimated to be 41.2 tons/year, with 9.3 times greater sediment load in the Trout Creek watershed predicted from the action versus no action alternatives (USFS 2007b, p. 83). The petition states that even the use of temporary roads can have a long-term effect on soil compaction, as studies conducted in California indicated that soil in logging skid trails that had not been used in 40 years remained 20 percent more compacted than soil in nearby areas that were not used as skid trails (Vora 1988, pp. 117, 119).

#### Prescribed Fire

The petition states that, in addition to logging activities, the Fuel Reduction Project involves prescribed burns (USFS 2007b, map 2.3), and the Ranch of the Rockies timber sale project (USFS 2007d, pp. 1-3) involves burning piles of slash. The petition states that regular burns conducted around the area of Trout Creek Spring could have a negative impact on stream quality, because burning has been shown to affect aquatic habitats and watersheds in a variety of ways (Neary *et al.* 2005, pp. 1-250). For instance, mechanical site preparation and road construction needed to conduct prescribed burns can lead to increased erosion and sediment production, especially on steep terrain. Removal of leaf litter from the soil surface through burning can lead to reduced water infiltration into the soil,

increasing the amount of surface runoff into streams. Additionally, ash depositions following a fire can affect the pH of water. Negative impacts may be exacerbated by burning slash piles, since the fire intensity is greater when the fuel is piled in a small area which can have a stronger impact on the underlying soil.

The petitioners believe that cumulative effects of increased erosion, increased sedimentation, and nonpoint source pollution from prescribed fire associated with logging activities in the area near the Susan's purse-making caddisfly habitat are likely to have a serious deleterious effect on this species. However, the petitioners provide no information to quantify the magnitude of potential cumulative effects from these activities.

#### Dewatering of Spring Habitats

The petition states that Trout Creek Spring is not currently proposed for livestock water development, but several other water developments exist and are being pursued in the Chubb Park area. The petitioners believe the development of numerous springs in the area could affect the hydrology of remaining springs and streams, in addition to reducing potential new habitat for the Susan's purse-making caddisfly colonization. The petition states that reduction of stream flow due to increased groundwater use and water diversion can have a dramatic impact on stream habitat and associated macroinvertebrate communities. The petition states that a range of studies examined in a review of the subject by Dewson *et al.* (2007, pp. 401-411) indicated that artificial flow reductions frequently lead to changes such as decreased water depth and increased sedimentation, as well as altered water temperature and water chemistry, thereby reducing or influencing macroinvertebrate numbers, richness, competition, predation, and other interactions. The petitioners believe the restricted distribution and narrow habitat requirements of the Susan's purse-making caddisfly make it likely that human-induced alterations in stream hydrology and water chemistry will have a negative impact on this species.

High Creek Fen, where the second known population of the Susan's purse-making caddisfly exists, is part of a 485-ha (1,200-ac) preserve owned and managed by TNC. The petition states that Park County, where the preserve is located, has experienced significant population increases since the 1990s, and is currently considered one of the fastest-growing counties in Colorado

(Miller and Ortiz 2007, p. 2). Population growth in this area is accompanied by an increased demand for fresh drinking water. In 2000, 89 percent of the population of Park County received water from groundwater sources (Miller and Ortiz 2007, p. 2). The area surrounding High Creek Fen is currently being protected, but the fen itself is fed by groundwater sources. The petitioners believe sustained or increasing groundwater removal to support increased human development is likely to have a deleterious effect on the hydrology of this vulnerable habitat and the unique plant and invertebrate species it supports, including the Susan's purse-making caddisfly. However, the petitioners provide no information to quantify the magnitude or temporal aspect of potential effects from this activity.

#### Roads

In addition to roads associated with timber-related projects as described above, the petition states that the springs utilized by the Susan's purse-making caddisfly are impacted by Highway 285 and Forest Road 309 (USFS 2007b, map 2.3).

Highway 285, which receives heavy traffic, runs within a few hundred meters (several hundred feet) of Trout Creek Spring. The petition states that roads accumulate a variety of contaminants including brake dust, heavy metals, and organic pollutants, which are carried directly into streams by overland runoff (Forman and Alexander 1998, pp. 219-221; Trombulak and Frissell 2000, pp. 19, 22-24; Gucinski *et al.* 2001, pp. 40-42). Forest Road 309, which is immediately above the spring, receives periodic maintenance, including grading, which, the petition states, can increase the rate of erosion and deliver increased silt loads to the type locality spring and stream (Gucinski *et al.* 2001, pp. 12-15).

#### Recreation

The petition states that population growth in and around the project area has led to increased numbers of recreational users. The pressure of recreational users is likely to remain high, because the population growth this area has experienced in recent years is expected to continue. The population of Chaffee County increased 28.1 percent from 1990 to 2000, with much of the growth occurring in unincorporated areas, and the population of Colorado is expected to increase by about 50 percent within the next 20 to 25 years (Chaffee County Comprehensive Plan 2000, p. 10).

#### Camping and Hiking

The petition states that the Chubb Park area is a popular site for outdoor enthusiasts, and is a year-round destination for hunting, mountain biking, scenic drives, bird watching, hiking, and camping. Population increases in the region also have increased the numbers of regular local users, and recreational use is likely to continue to intensify, based on national trends. A study of outdoor recreation trends in the United States (Cordell *et al.* 1999, pp. 219-321) found increases in participation in most of the activities surveyed, which included bicycling, primitive or developed area camping, birdwatching, hiking, backpacking, and snowmobiling.

The petitioners believe intensified human activities in and around natural areas will have unavoidable negative impacts on habitat. For example, the petitioners state that unauthorized trails have been created by hikers along streams in the area around Trout Creek Spring. In addition, hikers may intentionally or through negligence leave gates open that are intended to restrict livestock from riparian areas or from grazed pastures that are being rested. Direct damage to Trout Creek Spring is possible, as it is a desirable water source for campers (USFS 2007e, p. 2). The petition states that increased human passage to the spring to obtain water could damage the riparian zone and disturb habitat. In addition, if campers use the spring to wash themselves or their cookware, the water quality of the spring could be negatively impacted by detergents. The petitioners believe that the activities of large numbers of recreational users could damage the integrity of the habitat of the Susan's purse-making caddisfly through trampling and removal of riparian vegetation, compacting soil, creating ruts and bare ground across portions of upland and riparian zones, and lowering water quality.

#### Off-Road Vehicle Use in Non-designated Areas

The petition states that unauthorized off-road vehicle (ORV) and motorcycle usage and impacts have been documented in the Trout Creek watershed and around the Trout Creek Spring type locality (Teves and Stednick 2005, pp. 14, 19; USFS 2007e, pp. 2-3). The petition states that on the national level, ORV usage has risen substantially; the number of people who reported engaging in ORV activities rose by 8 million individuals between 1982 and 1995, and an increase of 16 percent nationally is anticipated during the next

50 years (Bowker *et al.* 1999, pp. 339-340; Garber-Yonts 2005, p. 30). ORV use in the Trout Creek watershed is extensive, and as much as 80 percent of the trails in some areas have been created illegally (Teves and Stednick 2005, p. 14). The petitioners believe illegal ORV use can negatively impact conditions in riparian areas through damage to riparian vegetation and stream banks, leading to increased sedimentation.

#### Evaluation of Information Provided in the Petition

We reviewed the petition, the references included with the petition, and the references cited by the petitioners that we were able to locate. The petition documents that grazing occurs upstream and immediately around Trout Creek Spring, and presents information that demonstrates that grazing is currently having deleterious effects on the Susan's purse-making caddisfly habitat and vegetation surrounding the stream and wetland areas where the caddisfly occurs. The Draft Grazing EA states that the Chubb Allotment has livestock concentrating in low lying areas, infrastructure is not adequate to control livestock, hoof action is causing bank trampling and plant pedestalling in the riparian area, and there is a need to maintain or improve the riparian area (USFS 2007a, p. 22). For the Four-mile Allotment, the Draft Grazing EA states that infrastructure is not adequate to control livestock, and there is a need to maintain or improve riparian areas (USFS 2007a, p. 22). Furthermore, the USFS Sensitive Species designation for the Susan's purse-making caddisfly points out that grazing cannot be discounted as a threat (USFS 2007e, p. 2).

Effects from large-scale or intense burns, and from the construction of new logging roads, may be occurring. According to a map in the Fuel Reduction EA (USFS 2007b, map 2.3), no prescribed burns will occur immediately around or upstream of Trout Creek Spring, but burns higher up in the watershed, in the Chubb Park area, could add sediment from the burning and thinning activities. The Fuel Reduction EA states that 9.3 times greater sediment load in the Trout Creek watershed is expected from the action alternative relative to the no action alternative (USFS 2007b, p. 83). We could find no evidence that the Ranch of the Rockies timber sale (USFS 2007d, pp. 1-3) would involve burning. Nonetheless, the creation of temporary roads and skid trails in the Ranch of the Rockies timber sale area could further

increase sedimentation. The Fuel Reduction EA did not contain a description of the timeline for the prescribed burns or thin and burn projects, other than a statement that treatments would occur at various intervals (USFS 2007b, p. 55). If burns and thinning treatments are placed too closely together in either time or space, we believe increased impacts from sedimentation could occur.

Although the Draft Grazing EA does not contain concrete statements that further water development will occur for grazing purposes, water development for grazing purposes is listed as an option in several places both on Chubb and Four-mile allotments and as a standard practice throughout the planning area (USFS 2007a, pp. 47, 50, 54). The Draft Grazing EA states that no stock water is available in uplands to draw cattle away from low lying areas within the Chubb Allotment (USFS 2007a, p. 22). Similarly, the Draft Grazing EA states that limited stock water is available in uplands to draw cattle away from low lying areas within the Four-mile Allotment (USFS 2007a, p. 22). Furthermore, surface water or groundwater depletions farther upstream in the High Creek watershed could impact the Susan's purse-making caddisfly at High Creek Fen. We find that there is only speculative information provided in the petition regarding future water development in either area.

Trout Creek Spring is located in a very narrow corridor between Highway 285 and Forest Road 309. As documented in some studies (Forman and Alexander 1998, pp. 219-221; Trombulak and Frissell 2000, pp 19, 22-24; Gucinski *et al.* 2001, pp. 12-15, 40-42) and mentioned in the Fuel Reduction EA (USFS 2007b, p. 83), it is likely that erosion and increased sediment load will occur as a result of maintenance and use of the roads. Contaminant impacts from road salts and vehicles could occur, but the petition provided little information on these particular impacts.

According to the USFS Sensitive Species designation, ORV use has been documented to impact the habitat around Trout Creek Spring (USFS 2007e, pp. 2-3). The Sensitive Species designation also states that dispersed recreation could be an impact, but this appears to be less certain. Portions of the Four-mile Allotment apparently have high recreational use (USFS 2007a, p. 22) but it is not clear if high recreational use occurs around Trout Creek Spring. The petition did not indicate that recreational use at High Creek Fen was a threat.

Overall, we find that the petition presents substantial information indicating that listing the Susan's purse-making caddisfly may be warranted based on the present or threatened destruction, modification, or curtailment of the species' habitat or range through impacts of livestock grazing, erosion and sedimentation from logging roads, and sedimentation from prescribed fire activities. We find that the petition does not present substantial information indicating that listing the Susan's purse-making caddisfly may be warranted based on impacts from dewatering of spring habitats; contaminant runoff from existing roads; erosion and sediment impacts from existing roads; or recreational impacts from ORV use, camping, or hiking at either Trout Creek or High Creek Fen.

#### *B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

The petitioners believe that because this species is so rare, collection is a potential threat. The petitioners state that, in general, because of the high fecundity of insects, the collection of insects typically poses little threat to their populations. However, in the case of the Susan's purse-making caddisfly, where it is restricted to only two small sites, the petitioners believe that collection of individuals for scientific or educational purposes could significantly reduce production of offspring and affect the species.

#### Evaluation of Information Provided in the Petition

The Susan's purse-making caddisfly occupies only two small sites, so overutilization could easily occur if people wanted to collect the caddisfly. However, the petitioners provided no evidence that overutilization has been or will be a threat to the Susan's purse-making caddisfly. Consequently, the petition does not provide substantial information indicating that listing the Susan's purse-making caddisfly may be warranted due to overutilization for commercial, recreational, scientific, or educational purposes.

#### *C. Disease or Predation*

The petitioners state that neither disease nor predation appear to be a threat to the Susan's purse-making caddisfly. However, they state that little is known about the life history and ecology of the Susan's purse-making caddisfly, and threats from disease or predation have never been assessed. They also state that small size of the only two known populations of the Susan's purse-making caddisfly makes

this species more vulnerable to extinction as a result of normal population fluctuations due to predation or disease.

#### Evaluation of Information Provided in the Petition

The Susan's purse-making caddisfly may be more vulnerable to extinction from disease or predation as a result of its small population size. However, the petitioners present no evidence of current disease or predation problems, nor do they provide information to link this to a potential problem in the future. Consequently, the petition does not provide substantial information indicating that listing the Susan's purse-making caddisfly may be warranted due to disease or predation.

#### *D. Inadequacy of Existing Regulatory Mechanisms*

The petitioners state that the Susan's purse-making caddisfly receives no Federal or State protection. It is listed as USFS Region 2 sensitive species (USFS 2007e, pp. 1-3), but the petitioners state that potential impacts to the Susan's purse-making caddisfly from the Fuels Reduction Project (USFS 2007b, p. 48), grazing management through the Draft Grazing EA (USFS 2007a, p. 108), and the Ranch of the Rockies timber sale project (USFS 2007d, pp. 1-3) were not addressed. The petitioners believe that multiple, ongoing grazing and fuel reduction projects in and around the areas where the Susan's purse-making caddisfly is found will continue to impair existing and potential spring habitat for this restricted species.

#### Evaluation of Information Provided in the Petition

We reviewed portions of the Fuel Reduction EA (USFS 2007b, p. 48) and found that the Susan's purse-making caddisfly was not addressed. We also reviewed portions of the Draft Grazing EA and found that the Susan's purse-making caddisfly was not mentioned (USFS 2007a, p. 108). As the Sensitive Species designation points out (USFS 2007e, p. 2), grazing cannot be discounted as a threat. Consequently, if the USFS is not addressing grazing or other impacts immediately around Trout Creek Spring and Trout Creek, or giving greater consideration to actions upstream affecting water quality and quantity, we do not believe that sensitive species designation constitutes an adequate regulatory mechanism to protect the species and its habitat. TNC and Colorado State Land Board own a majority of the land around High Creek Fen, which helps to protect the fen. However, the petitioners did not

provide specific land protection information regarding measures that either of these entities may be taking to protect the fen.

Due to lack of evidence of apparent Federal protection, we conclude that the petition presents substantial information indicating that listing the Susan's purse-making caddisfly may be warranted based on inadequate existing regulatory mechanisms. The petition did not provide any information regarding State or non-governmental regulatory mechanisms, nor do we have any information in our files.

#### *E. Other Natural or Manmade Factors Affecting the Species' Continued Existence*

##### Small Population Size and Stochastic Events

The petitioners state that small populations are generally at greater risk of extirpation from normal population fluctuations due to predation, disease, and changing food supply, as well as from natural disasters such as floods or droughts. They also state that loss of genetic variability and reduced fitness due to inbreeding may be occurring due to limited dispersal ability of the Susan's purse-making caddisfly between the two known populations.

##### Global Climate Change

The petitioners state that the effects of global climate change are being assessed in North America and throughout the world, and changes in precipitation patterns, stream hydrology, and bloom time have already been noted. They state that stream flows decreased by about 2 percent per decade across the last century in the central Rocky Mountain region (Rood *et al.* 2005, p. 231).

The petitioners also reference Field *et al.*'s (2007, p. 627, 632, 635) conclusions that the effects of global climate change are anticipated to include warming in the western mountains, causing snowpack and ice to melt earlier in the season. These changes could lead to both increased flooding early in the spring, and drier summer conditions, particularly in the arid western areas which rely on snowmelt to sustain stream flows. The petitioners point out that spring and summer snow cover has already been documented as decreasing in the western United States, and drought has become more frequent and intense (Intergovernmental Panel on Climate Change 2007, pp. 8, 12). Major hydrologic events such as floods and droughts are projected to increase in frequency and intensity (Intergovernmental Panel on Climate

Change 2007, p. 18). The petitioners state that erosion is also projected to increase as the result of a combination of factors, such as decreased soil stability from higher temperatures and reduced soil moisture, and increases in winds and high intensity storms (Intergovernmental Panel on Climate Change 2007, pp. 12, 14, 15, 18).

The petitioners conclude that projected cumulative effects of continuing global climate change, including increased frequency and severity of seasonal flooding and droughts, reduced snowpack to feed stream flow, increased siltation, and increasing air and water temperatures, would seriously impair the Susan's purse-making caddisfly's habitat and negatively impact its survival.

##### Evaluation of Information Provided in the Petition

Although the limited distribution and presumably small size of the two populations of the Susan's purse-making caddisfly could be a concern, the petitioners did not provide trend information to indicate that the caddisfly or its habitat are being impacted as a result of small population size or stochastic events. It is possible that climate change could pose a problem to the Susan's purse-making caddisfly if water levels, water temperature, or other habitat variables that affect the caddisfly change as a result of global warming. However, there is currently no model that can predict climate change effects at a local enough scale to ascertain whether climate change is, or will become, a threat to the Susan's purse-making caddisfly. Consequently, we conclude that the petition does not present substantial information indicating that listing the Susan's purse-making caddisfly may be warranted based on other natural or manmade factors affecting the species' continued existence.

##### Finding

Section 4(b)(3)(A) of the Act 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 are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents "substantial scientific and commercial information," which is interpreted in our regulations as "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). As described above, the petition presents substantial information indicating that listing the Susan's purse-making caddisfly throughout its entire range may be warranted, based on impacts of livestock grazing, erosion and sedimentation from logging roads, and sedimentation from prescribed fire activities (Factor A), and the inadequacy of Federal regulatory mechanisms (Factor D). Based on our evaluation (above), the petition does not present substantial information indicating that Factors B, C, and E are a threat to this species. However, we are seeking information from the public that may be relevant to these and the other listing factors.

Based on this review and evaluation, we find that the petition presents substantial scientific or commercial information that listing the Susan's purse-making caddisfly throughout all or a portion of its range may be warranted due to current and future threats under Factors A and D. Therefore, we are initiating a status review to determine whether listing the Susan's purse-making caddisfly under the Act is warranted.

The "substantial information" standard for a 90-day finding is not the same as the Act's "best scientific and commercial data" standard that applies to a 12-month finding to determine whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination of whether a petitioned action is warranted is not made until we have completed a thorough status review of the species as part of the 12-month finding on a petition, which is conducted following a positive 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

##### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Western Colorado Field Office (see **FOR FURTHER INFORMATION CONTACT**).



**Authors**

The primary authors of this notice are the staff members of the Western Colorado Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authority**

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

Dated: June 25, 2009.

**Marvin E. Moriarty,**

*Acting Director, U.S. Fish and Wildlife Service*  
[FR Doc. E9-16080 Filed 7-7-09; 8:45 am]

BILLING CODE 4310-55-S

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 090130102-91070-01]

RIN 0648-AX59

**International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Bigeye Tuna Catch Limits in Longline Fisheries in 2009, 2010, and 2011**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to establish a catch limit for bigeye tuna (*Thunnus obesus*) in the U.S. pelagic longline fisheries in the western and central Pacific Ocean for each of the years 2009, 2010, and 2011. Once the limit of 3,763 metric tons (mt) is reached in any of those years, retaining, transshipping, or landing bigeye tuna caught in the western and central Pacific Ocean would be prohibited for the remainder of the year, with certain exceptions. The limit would not apply to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary for the United States to satisfy its international obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

**DATES:** Comments must be submitted in writing by August 7, 2009.

**ADDRESSES:** You may submit comments on this proposed rule, identified by 0648-AX59, and the regulatory impact review (RIR) prepared for the proposed rule by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking portal, at <http://www.regulations.gov>.

- Mail: William L. Robinson, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Include the identifier "0648-AX59" in the comments.

Instructions: All comments received are part of the public record and generally will be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

An initial regulatory flexibility analysis (IRFA) prepared under the authority of the Regulatory Flexibility Act (RFA) is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

Copies of the RIR and copies of the environmental assessment (EA) prepared under the authority of the National Environmental Policy Act are available at [http://www.fpir.noaa.gov/IFD/ifd\\_documents\\_data.html](http://www.fpir.noaa.gov/IFD/ifd_documents_data.html) or may be obtained from William L. Robinson, Regional Administrator, NMFS PIRO (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Tom Graham, NMFS PIRO, 808-944-2219.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

This proposed rule is also accessible at <http://www.gpoaccess.gov/fr>.

**Background on the Convention and the WCPFC**

The Convention entered into force in June 2004. The full text of the Convention is available at: <http://www.wcpfc.int/convention.htm>. The area of application of the Convention, or the Convention Area, comprises the

majority of the western and central Pacific Ocean (WCPO). In the North Pacific Ocean the eastern boundary of the Convention Area is at 150° W. long. A map showing the boundaries of the Convention Area is available at: <http://www.wcpfc.int/pdf/Map.pdf>. The Convention focuses on the conservation and management of highly migratory species (HMS) and the management of fisheries for HMS, and has provisions related to non-target, associated, and dependent species in such fisheries.

The Western and Central Pacific Fisheries Commission (WCPFC), established under the Convention, is comprised of the Members, including Contracting Parties to the Convention and fishing entities that have agreed to be bound by the regime established by the Convention. Other entities that participate in the WCPFC include Participating Territories and Cooperating Non-Members. Participating Territories participate with the authorization of the Contracting Parties with responsibility for the conduct of their foreign affairs. Cooperating Non-Members are identified by the WCPFC on a yearly basis. In accepting Cooperating Non-Member status, such States agree to implement the decisions of the WCPFC in the same manner as Members.

The current Members of the WCPFC are Australia, Canada, China, Chinese Taipei (Taiwan), Cook Islands, European Community, Federated States of Micronesia, Fiji, France, Japan, Kiribati, Korea, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Tonga, Tuvalu, United States, and Vanuatu. The current Participating Territories are French Polynesia, New Caledonia and Wallis and Futuna (affiliated with France); Tokelau (affiliated with New Zealand); and American Samoa, the CNMI and Guam (affiliated with the United States). The Cooperating Non-Members for 2009 are Belize, El Salvador, Indonesia, Mexico, and Senegal.

**International Obligations of the United States under the Convention**

The United States ratified the Convention in 2007 and in doing so became a Contracting Party to the Convention and a Member of the WCPFC. From 2004 until that time, the United States participated in the WCPFC as a Cooperating Non-Member. As a Contracting Party to the Convention and a Member of the WCPFC, the United States is obligated to implement the decisions of the WCPFC in a legally binding manner. The WCPFC Implementation Act (16