his/her sole discretion shall determine the need for an Emergency Relief Docket.

(c) All petitions for relief must be posted in the docket in order to receive consideration by FTA.

(1) The docket is publicly accessible and can be accessed 24 hours a day, seven days a week, via the Internet at the docket facility's Web site at *http://dms.dot.gov.* Petitions may also be submitted by U.S. mail or by hand delivery to the DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590.

(2) In the event a person needs to request immediate relief and does not have access to electronic means to request that relief, the person may contact any FTA regional office and request that the FTA regional office submit the petition on their behalf.

(3) Any person submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number, which will be assigned at the time the docket is established. Persons making submissions by mail or hand delivery should submit two copies.

(4) Note that all petitions for relief and comments received will be posted, without change, to *http://dms.dot.gov* including any personal information provided and will be available to Internet users.

(5) All documents in this docket are available for inspection and copying on the web site or are available for examination at the DOT Docket Management Facility during regular business hours (9 a.m. to 5 p.m. eastern time).

§ 601.43 Required Information.

A petition for relief under this section must:

(a) Identify the grantee or subgrantee and its geographic location;

(b) Specifically address how the petition for exemption from FTA policy statements, circulars, guidance documents and/or rules is related to the emergency relief efforts, or how the grantee or subgrantee is negatively impacted by the emergency or disaster;

(c) Identify the policy statement, circular, guidance document and/or rule from which the petitioner seeks relief;

(d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is in effect. The time period may not exceed three months, however, additional time may be requested through a second petition for relief; and

(e) If relief is sought from charter service requirements, include a certification that the grantee or subgrantee made good faith efforts to contact, by whatever means available, private charter or school bus operators to determine whether those entities are willing to provide the service. Documentation should include the name and address of the private charter operator(s), the date the requestor (e.g., the transit agency) contacted the operator(s), and what response the requestor received. In addition, the grantee or subgrantee must certify that it contacted the American Bus Association (e-mail: *abainfo@buses.org*, phone: (202) 842–1645); the United Motor Coach Association (e-mail: *info@uma.org*, phone: (800) 424–8262); and the National School Transportation Association (e-mail: *info@yellowbuses.org*, phone: (800) 222Z–NSTA).

§ 601.44 Processing of petitions.

A petition for relief will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA will then post a decision to the Emergency Relief Docket FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition.

§ 601.45 Request for hearing on petition for relief.

Parties interested in having a public hearing on any petition must notify FTA within three business days of the posting of the petition for relief in the Emergency Relief Docket. Upon receiving such a request, FTA will immediately arrange for a telephone conference to occur between all interested parties as soon as practicable. FTA may grant a petition for relief prior to conducting a public hearing if such action is in the public interest or in situations where a hearing request is received after the three business days has expired. In such an instance, FTA will immediately notify the party requesting the public hearing and will arrange to conduct such hearing as soon as practicable.

§ 601.46 Review Procedures.

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative or based upon information or comments received subsequent to the three business day comment period or at a later scheduled public hearing.

Issued in Washington, DC, this 2nd day of August 2006.

Sandra K. Bushue,

FTA Deputy Administrator.

[FR Doc. 06–6771 Filed 8–7–06; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Casey's June Beetle (Dinacoma caseyi) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day 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 Casey's June beetle (*Dinacoma caseyi*) as endangered under the Endangered Species Act of 1973, as amended (Act). We find the petition presents substantial scientific information indicating that listing the Casey's June beetle as endangered may be warranted. Therefore, with the publication of this notice, we are initiating a status review, and we will issue a 12-month finding on the petition to list the Casey's June beetle announcing our determination of whether listing the species as endangered is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: The finding announced in this document was made on August 8, 2006. To be considered in the 12-month finding for this petition, comments and information must be submitted to the Service by October 10, 2006.

ADDRESSES: If you wish to comment, you may submit new information, materials, comments, or questions concerning this species by any one of the following methods:

1. You may submit comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011.

2. You may hand-deliver written comments and information to the above address.

3. You may fax your comments to 760–431–9624.

4. You may go to the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

5. You may e-mail your comments to *FW8CFWOcomments@fws.gov*. Please see the ''Public Comments Solicited'' section below for file format and other information about electronic filing.

See the ''Public Comments Solicited'' section below for more information on submitting comments. The complete file for this finding is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); 760–431–9440.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. Based on results of the status review, we make a 12-month finding as required by section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et. seq.*). To ensure that the status review of Casey's June beetle is complete and based on the best available scientific and commercial data, we are soliciting information on the species. We request any additional data, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the Casey's June beetle. Of particular interest is information pertaining to the factors the Service uses to determine if a species is threatened or endangered: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other natural or human-caused factors affecting its continued existence. In addition, we request data and information regarding the status of the Casey's June beetle throughout its range, including:

(A) Information on taxonomy, distribution (including positive or negative survey and collection data), habitat selection, food habits, population density and trends, and habitat trends;

(B) Information of the effects of potential threat factors, including artificial lighting, pesticides, lighted swimming pools, development, and changes in the distribution and abundance of the Casey's June beetle over the short and long term; and

(C) Information on management programs for Casey's June beetle conservation, including mitigation measures related to development, and any private, Tribal, or governmental conservation programs that benefit the Casey's June beetle.

If we determine that listing the Casey's June beetle is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we would propose to list the species. Therefore, 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, whether any of these features may require special management considerations or protection, and whether there are areas not containing these features which might of themselves be essential to the conservation of the species. Please provide specific comments as to what, if any, critical habitat should be proposed for designation if the species is proposed for listing, and why that proposed habitat meets the requirements of the Act.

We will base our 12-month finding on a review of the best available scientific and commercial information, including all information received during the public comment period.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Electronic comments may be submitted to *FW8CFWOcomments@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please include ''Attn: Casey's June beetle'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your electronic message, contact the Carlsbad Fish and Wildlife Office directly at 760–431–9440.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. We will not consider anonymous comments, and we will make all comments available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Background

Section 4(b)(3)(A) of the Act requires us to make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base the finding on information provided in the petition and supporting information available in our files at the time we make a determination. To the maximum extent practicable, we are to make a finding within 90 days of our receipt of the petition and to publish a 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 information is presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners and information available in our files at the time we reviewed the petition, and we evaluated that information in accordance with 50 CFR 424.14(b). Our process for making a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information contained in the petition meets the ''substantial information'' threshold.

On May 12, 2004, we received a petition, dated May 11, 2004, from David H. Wright, Ph.D.; the Center for Biological Diversity; and the Sierra Club requesting the emergency listing of the Casey's June beetle (*Dinacoma caseyi*) as endangered in accordance with section 4 of the Act. On October 4, 2005, the Center for Biological Diversity filed a complaint against us in the U.S. District Court for the Central District of California (Case No. ED CV–05–00922–SGL) challenging our failure to make the required 90-day and, if appropriate, 12-month findings on their petition to emergency list Casey's June beetle as endangered under the Act. We looked at the immediacy of possible threats to the species to determine if emergency listing may be warranted. Our initial review of the petition did not indicate that an emergency situation exists. We reached a settlement agreement with the

plaintiffs on March 28, 2006, in which we agreed to submit to the **Federal Register** a completed 90-day finding by July 27, 2006, and to complete and submit to the **Federal Register**, if applicable, a 12-month finding by June 30, 2007. This notice constitutes the 90-day finding on the May 12, 2004, petition.

Previous Federal Actions

Casey's June beetle was not previously determined to be a candidate species nor does it currently have Federal regulatory status.

Species Information

Description and Taxonomy

Casey's June beetle belongs to the scarab family (Scarabidae). The genus Dinacoma includes two described species, *D. caseyi* and *D. marginata* (Blaisdell 1930). Delbert La Rue, a researcher experienced with the genus *Dinacoma* and a taxonomic expert stated, ''*Dinacoma caseyi* is a distinct species morphologically and comprises its own species group—the *caseyi* complex—the other [species group] being the *marginata* complex which includes the bulk/remainder of the genus'' (La Rue 2006). The Casey's June beetle was first collected in 1916 and later described by Blaisdell (1930) based on male specimens. This species measures 0.55 to 0.71 inches (in) (1.4 to 1.8 centimeters (cm)) long, with dusty brown or whitish coloring, and brown and cream longitudinal stripes on the elytra (wing covers and back).

Little is conclusively known about the Casey's June beetle and its life history. Based on surveys conducted to assess the species' presence, both male and female Casey's June beetles emerge from underground burrows sometime between late March through early June, with abundance peaks generally occurring in April and May (Duff 1990; Barrows 1998). During the active flight season, males emerge from the ground and begin flying near dusk (Hovore 1997). Males are reported to fly back and forth or crawl on the ground where a female beetle has been detected (Duff 1990). Cornett (2003) theorized that after emergence, females remain on the ground and release pheromones to attract flying males. After mating, females return to their burrows or dig a new burrow and deposit eggs. Excavations of adult emergence burrows revealed pupal exuviae (casings) at depths ranging from approximately 4 to 6 in (10 to 16 cm) (Frank Hovore and Associates 1995). The larval cycle for the species is likely 1 year, based on the absence of larvae (grubs) in burrows during the adult flight season (Frank Hovore and Associates 1995; LaRue 2004). What Casey's June beetle larvae feed on while underground is unknown, but other species of June beetle are known to eat ''plant roots or plant detritus and associated decay organisms'' (LaRue 2004). La Rue (2006) stated, ''[Casey's June beetle] exhibits no specific host preferences, and larvae likely consume any available organic resources—including stratified detritus—encountered within the alluvial habitat.'' Although specific host plant associations for Casey's June beetle are not known, visual surveys of the species using non-confining, light-collecting methods have detected females near emergence burrows in the vicinity (within 1 meter) of *Hymenoclea salsola* (cheesebush) (Frank Hovore and Associates 1995).

Recently, entomologists have found two new species or subspecies of Dinacoma, collected respectively from near the city of Hemet, California, and in the northwest portion of Joshua Tree National Park at Covington Flats (La Rue 2006). The specimens collected from Hemet are paler than Casey's June beetle specimens and possess morphologically different genitalia (Anderson 2006). To date, these specimens of *Dinacoma* have not been formally described in the scientific literature, but expert evaluation places them in the other *Dinacoma* species group (*marginata* complex) (La Rue 2006). La Rue (2006) states, ''* * * from my research, *Dinacoma caseyi* is the most divergent and distinct species in the genus * * * the Little San Bernardino Mountains geographically isolate [the Joshua Tree population] from all other known [*Dinacoma*] species.''

Habitat

The Casey's June beetle is most commonly associated with Carsitas series soil (CdC), described by the United States Department of Agriculture's Soil Conservation Service (1980) as gravelly sand on 0 to 9 percent slopes. This soil series is associated with alluvial fans, rather than areas of aeolian or windblown sand deposits. The Casey's June beetle also occurs in a portion of Palm Canyon Wash on soils characterized as ''fine sands and alluvial soils without crypto-biotic crusts'' (McGill 2003). According to Hovore (2003), these soils ''show light braiding and some organic deposition, but generally do not receive scouring surface flows.'' Although the Casey's June beetle has primarily been found on CdC soils, it is also apparently associated with Riverwash (RA) and, possibly, Carsitas cobbly sand (ChC) soils in the Palm Canyon Wash area (Anderson and Love 2006). Its burrowing habit would suggest the species needs soils that are not too rocky or compacted to complete portions of its lifecycle. La Rue (2006) states that all *Dinacoma* populations are ecologically associated with alluvial sediments. Alluvial sediments occurring in or contiguous with subcoastal scrub, submontane chaparral, and desert dry washes (ephemeral watercourses) are indicative of the *marginata* complex; bases of desert alluvial fans, and the broad, gently sloping, depositional surfaces formed at the base of mountain ranges in a dry region by the coalescing of individual alluvial fans (bajada) are indicative of the *caseyi* complex (La Rue 2006).

Range and Distribution

Early collection records identify ''Palm Desert,'' ''Indian Wells,'' and ''Palm Canyon,'' all in Riverside County, California, as locations where the Casey's June beetle occurred; however, these early records lack specific locality information (Duff 1990). The species has been most commonly collected at the ''Bogert Trail'' and Smoke Tree Ranch localities adjacent to Palm Canyon Wash, which are commonly used as reference sites when collecting at other locations (Hovore 1997; Cornett 2000; Cornett 2003; Cornett 2004). Hovore (1995) stated the Casey's June beetle was collected by University of California-Long Beach students ''within the past 20 years'' in Dead Indian Canyon (near Indian Wells); however, Hovore (2006b) subsequently explained the reliability of this information is questionable and incomplete due to incomplete specimen label information. The historical range of the Casey's June beetle cannot be determined with any certainty given the lack of specific locality information for some of the collection records and the absence of rangewide survey data. Frank Hovore and Associates (1995) describe the possible extent of the species' historical range as ''somewhere around Chino Canyon floodplain (or at most northwest to the Snow Creek drainage), south to around Indian Wells.'' Within these general geographic areas, the species is assumed to have occurred on the alluvial fan bases flowing from the Santa Rosa Mountains, at or near the level contour line, where finer silts and sand are deposited. However, this purported range is ''based on inference and fragmentary data'' (Frank Hovore and Associates 1995).

Given the lack of collection records, efforts have been made to ascertain the presence of the Casey's June beetle in its purported historical range. Barrows and

Fisher (2000) conducted trapping on two separate evenings in Dead Indian Canyon in Palm Desert, but the species was not detected. The University of California—Riverside conducted more than 10 years of year-round surveys for a variety of species, including Casey's June beetle, at the Boyd Deep Canyon Preserve in Palm Desert, California, southeast of Palm Springs (also near Indian Wells, and including portions of Dead Indian Canyon). No Casey's June beetles were found during any of the surveys (Anderson 2006). A single night survey conducted in 2003 (Powell) near Snow Creek, northwest of Palm Springs, failed to find the species, although the beetle was confirmed to be active at Smoke Tree Ranch in Palm Springs.

La Rue (2006) has collected and worked extensively with *Dinacoma* spp. in southern California since the 1980s, and has not collected Casey's June beetle outside of its current known range in the City of Palm Springs. La Rue (2006) states:

''Many collectors, researchers, ecologists, and others * * * have surveyed for *D. caseyi* throughout the Coachella Valley for years without finding additional populations other than those still extant in and around Palm Springs. There are several factors that contribute to this isolation, a few being: (1) topographically, the Palm Springs area is protected from high wind events (dessication [sic] of necessary substrate) [by] the precipitous San Jacinto Mtns; (2) the area where *D. caseyi* occurs in the Palm Springs area receives a higher amount of annual precipitation because of its proximity to the base of the San Jacinto/Santa Rosa Mtns. Orographic lift will deplete most moisture from winter storms originating from the Pacific, what little remains falls in the Palm Springs area and rarely further into the Coachella Valley. Summer monsoonal patterns are insignificant. (3) As mentioned above, *Dinacoma* are restricted to alluvial sediments. Re: *D. caseyi*; these conditions only occur at the base of steep narrow canyons of the San Jacinto/Santa Rosa Mtns.''

Cornett (2004) sampled more than 60 locations in Palm Springs to determine the current range of Casey's June beetle. Light traps were used to attract flying males and placed in relatively undisturbed flatlands likely to have supported Casey's June beetle. Traps were opened by 6:30 p.m. and remained open until at least 10 p.m. on 26 nights, for a total of 756 trap-hours. Eight traps were opened each evening, and each trapping station was used at least two times. To gauge trapping success, at least one trap was opened at Smoke Tree Ranch each trapping session. Based on the survey results, Cornett (2004) concluded that Casey's June beetle is restricted to an area of southern Palm Springs north of Acanto Way, east of South Palm Canyon Drive, and south of State Route 111, west of Palm Canyon Wash (Cornett 2004) and includes portions of the Agua Caliente Tribal Reservation. Cornett (2004) estimated the area occupied by Casey's June beetle to cover approximately 800 acres (ac) (324 hectares (ha)). Non-historic (1990s or later) collection locations of Casey's June beetle include sites near South Palm Canyon Drive, Bogert Trail, Smoke Tree Ranch, and portions of Palm Canyon Wash (Hovore 2003; McGill 2003; Powell 2003; Cornett 2004). However, not all the currently known range is occupied. For example, the species does not occur in residential areas where soils have been graded and covered with structures, nor is it found in areas with ornamental landscaping, such as lawns and other landscaping (Cornett 2004).

The above studies present compelling evidence for a localized distribution of Casey's June beetle in the southern Palm Springs area. The localized distribution of Casey's June beetle described by Cornett (2004) is typical for species of June beetles (superfamily Scarabaeoidea) with flightlessness in one or both sexes (Hovore 2006a). Experts agree with La Rue's (2006) hypothesis that the Palm Springs area east of Mount San Jacinto has a number of unique environmental characteristics, such as slightly higher precipitation and lighter winds, which are significant, positive factors contributing to the presence of the Casey's June beetle.

Threats Analysis

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be endangered or threatened due to one or more of the following five factors as described in section 4(a)(1) of the Act: (A) Present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. In making this 90-day finding, we evaluated the petition and its supporting information to determine whether substantial scientific or commercial information was presented that indicated that listing the Casey's June beetle may be warranted. The Act identifies the five factors to be considered, either singly or in combination, to determine whether a species may be threatened or endangered. Our evaluation of these threats, based on information provided in the petition and readily available in our files, is presented below.

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

The petitioners claimed that the Casey's June beetle is threatened by the cumulative loss and degradation of habitat from development. The petitioners stated that, within ''the south Palm Springs, California area,'' approximately 600 ac (243 ha) of potential CdC soils in nine remnant fragments ''in the Palm Springs topographic quadrangle south of San Rafael Drive'' remained undeveloped when the petition was submitted in 2004, and this area was decreasing due to continued urban development. The petitioners claimed that loss of habitat threatens the continued existence of two populations of the Casey's June beetle.

Petitioners stated that approximately 600 ac (243 ha) of potential CdC soils in nine remnant fragments in the south Palm Springs area remained undeveloped. To evaluate the information provided in the petition about the range of Casey's June beetle in Palm Springs, we used data already in our geographic information system (GIS) to overlay 2003 soil data (CdC and RA soil series) obtained from the U.S. Department of Agriculture (USDA)'s Natural Resources Conservation Service, 2006 aerial photography from the USDA's Farm Service Agency Aerial Photography Field Office, and species survey and distribution data from Powell (2003) (cited in the petition) and Cornett (2004) (available to us shortly after we received the petition).

Information provided by the petitioners (Barrows and Fisher 2000; Noss *et al.* 2001; Hovore 2003; McGill 2003; Powell 2003; La Rue 2006) is corroborated by information in our files (Hovore 2003; Cornett 2004), and GIS information available at the time of petition review (2003 soil data and 2006 aerial photography). Thus, we believe petitioners have provided substantial scientific information that only one population of the Casey's June beetle exists and is limited to the southern portion of the City of Palm Springs, California. Although the petition states there are two populations, no population distribution mapping or population dynamics studies have been conducted. Because all known occupied habitat is connected by Palm Canyon Wash, we consider all occupied areas to be within a single population distribution. That the majority of the

CdC soils tend to occur along the base of the mountains in ''areas most extensively used for agriculture and urban development, so that very little potential habitat may still exist'' (Coachella Valley Association of Governments 2001) supports the possibility of a larger historical distribution. However, we examined 2006 aerial photography overlaying potentially suitable soils from Palm Springs to Indian Wells and determined that the majority of these soils have been developed. In Palm Springs, the bulk of remaining undeveloped CdC soils are north of the city center, an area lacking in records of the species (Cornett 2004).

Within southern Palm Springs, the petitioners cited at least five projects that had been formally proposed that would remove additional occupied habitat in Palm Springs: (1) The 30–ac (12–ha) Monte Sereno project north of Bogart Trail; (2) the 34–ac (14–ha) El Portal project east of South Palm Drive; (3) the 10–ac (4–ha) Canyon Ranch project west of South Palm Canyon Drive; (4) a 3–ac (1.2–ha) condominium project at Baristo; and (5) the 1.5– to 2–ac (0.6– to 0.81–ha) Desert Water Agency wells and pipeline project in the Smoke Tree Ranch development. The petition states that these five projects would remove over 11 percent of the remaining 600 ac of habitat. While these five projects were considered the most imminent projects, the petition also lists several properties that were being actively advertised for lease and development and other projects in various stages of development south of San Rafael Drive: (1) 18 ac (7 ha) on Smoke Tree Ranch actively advertised for lease and development; (2) a roughly 25–ac (10–ha) project north of Acanto Drive and west of Palm Canyon Wash; (3) a 0.3–ac (0.1–ha) communications site at Smoke Tree Ranch; and (4) a 25–ac (10–ha) ''Casitas'' development at Smoke Tree Ranch. These projects, if approved and implemented, could result in the additional removal or modification of approximately 68–ac (27.5–ha) of Casey's June beetle habitat south of San Rafael Drive. The petition also lists a 3–ac (1–ha) South Ridge Cove project and a 306–ac (124–ha) ''McComic'' project proposed in CdC soils south of Whitewater Wash. However, it appears that these proposed development projects south of Whitewater Wash are north of Palm Springs, outside of the current known range of the Casey's June beetle as identified by Cornett (2004).

Based on our GIS mapping of Cornett's (2004) distribution map, the estimated Casey's June beetle range is approximately 707 ac (286 ha) as opposed to the approximately 800 ac (324 ha) estimated by Cornett (2004). To this we add another 51 ac (21 ha) of north Palm Canyon Wash between East Palm Canyon Drive and South Gene Autry Trail based on collection of more than 70 individuals by Powell (2003), resulting in an approximately 758–ac (307–ha) range for Casey's June beetle in the Palm Springs area. While this estimated current range of 758 ac (307 ha) is greater than the 600 ac (243 ha) of potential CdC soils presented in the petition, past development likely greatly reduced the habitat for Casey's June beetle in Palm Springs. As stated in the petition, historical records of the Casey's June beetle from elsewhere in Palm Springs and nearby communities are from areas that have been thoroughly developed or otherwise altered and no longer have the appropriate habitat (Noss *et al.* 2001). Also, according to 2006 aerial photography, it appears that construction has been at least initiated for some of the proposed or pending development projects listed in the petition (such as the 30–ac Monte Sereno project) and that other development projects may have been initiated within Palm Springs since the 2004 petition was submitted.

Based on information provided in the petition, it appears that pending or proposed development projects could result in the destruction or modification of approximately 147 ac (59 ha) of Casey's June beetle habitat in Palm Springs. This constitutes about 19 percent of the remaining 758 ac (307 ha), based on our determination of the species' current range. Since it appears that past development has removed most of the historical Casey's June beetle habitat, resulting in a range restricted to the southern Palm Springs area, and future development projects threaten to continue removing Casey's June beetle habitat, we find that the petition, supporting information, and information readily available to the Service presents substantial information indicating that listing Casey's June beetle may be warranted.

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

The petitioners stated that they do not have information on trade of the species, citing the difficulty of tracking these activities. We are not aware of any information regarding the overutilization of Casey's June beetle for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

The petitioners stated that they are unaware of impacts from disease or predation on Casey's June beetle. We are not aware of any information regarding the threats of disease or predation to the Casey's June beetle.

D. Inadequacy of Existing Regulatory Mechanisms

The petitioners maintained that Casey's June beetle occurs primarily on private lands and, to an unknown extent, occurs on a portion of the Agua Caliente Tribal Reservation. They also asserted that regulatory mechanisms currently available do not protect the Casey's June beetle. According to the petitioners, some protection for Casey's June beetle can potentially be provided under the California Environmental Quality Act (CEQA); however, the petition cited six projects that considered the species under CEQA (but proceeded with impacts) and another list of 12 projects in the City of Palm Springs that impacted potentially suitable soils for the species that may not have considered the species in their respective environmental reviews.

CEQA requires public agencies to disclose environmental impacts of a project on native species and natural communities during the land use planning process and to identify mitigation measures and project alternatives. This allows public comments to influence the planning process. The petition cites an example of the inadequacy of CEQA as a regulatory mechanism to provide for conservation of the Casey's June beetle. The Monte Sereno project impacted approximately 30 ac (12 ha) of occupied habitat. Impacts to the Casey's June beetle were expected to be mitigated by payment of $600 per acre (total of $24,780) to the City of Palm Springs or a habitat conservation entity designated by the city for 41.3 ac (16.7 ha) of ''potential'' Casey's June beetle habitat (Dudek and Associates 2001). No specific use of the funds for mitigation was specified (Dudek and Associates 2001).

The petitioners claimed that, while development on Tribal lands is subject to the National Environmental Policy Act (NEPA)(42 U.S.C. 4321–4347), potential impacts to Casey's June beetle may not always be considered during the NEPA process. The petitioners cited two instances of projects on Tribal lands that did not review impacts to the Casey's June beetle. In a 2004 Environmental Assessment (EA) for a brush clearing project on the Agua Caliente Tribal Reservation, CdC soils

were confirmed in a portion of the proposed project site. These soils were described in the EA as being compacted, and it was stated that the distance from this area to known locations of the Casey's June beetle, coupled with the amount of nonnative vegetation onsite, made it unlikely for the species to occur on the project site (Agua Caliente Band of Cahuilla Indians (Tribe 2004). Although the Tribe indicated that the two projects were not likely to impact Casey's June beetle habitat, we have no information indicating whether surveys were conducted for the species within the project's footprint.

Although Casey's June beetle was initially considered for coverage under the Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP), the April 2006 release of the final MSHCP, final EIR, and final implementing agreement did not include Casey's June beetle as a covered species. Given the non-inclusion of Casey's June beetle in the final Coachella Valley MSHCP and draft Agua Caliente Tribal HCP, the Service has been working with Smoke Tree Ranch to develop a Candidate Conservation Agreement with Assurances (CCAA) addressing species' conservation. As indicated in reports (Hovore 2003; Cornett 2004), Smoke Tree Ranch supports a substantial portion of known occupied Casey's June beetle habitat, including a portion of the property currently identified in Smoke Tree Ranch Codes, Covenants, and Restrictions as ''open space.'' The Service expects to continue working cooperatively with Smoke Tree Ranch to complete and implement a CCAA for the Casey's June beetle. The use of a CCAA can be an effective tool to conserve species in the absence of listing them as threatened or endangered under the Act. However, until such time as a CCAA is completed, current regulatory mechanisms likely are inadequate to ensure conservation of the species.

Removal of occupied habitat by projects in the Bogert Trail area after submission of the petition in 2004, and other recent and proposed development in potentially occupied habitat, demonstrates existing regulatory mechanisms are not sufficient to protect remaining occupied Casey's June beetle habitat from destruction. We find the petition and supporting information, as well as information readily available to the Service, present substantial information indicating that the petitioned action may be warranted.

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

The petitioners asserted male Casey's June beetles are readily attracted to artificial lights (Frank Hovore and Associates 1995; Hovore 1997), and such lights pose a significant threat to the species. They further stated that lighted swimming pools attract males and cause substantial mortality (Barrows and Fisher 2000; Cornett 2000). The extent that artificial lights and lighted swimming pools pose a threat to the Casey's June beetle is speculative. Hovore (2003) noted the presence of the Casey's June beetle on a portion of Smoke Tree Ranch with limited natural open space adjacent to ''numerous attractive light sources.'' He concluded that while males would likely be attracted to these light sources during the flight season, such losses of straying males would not put the overall population at risk because males typically outnumber females and males are likely to complete multiple matings. While drowning in swimming pools or flying into lights causes mortality, we have no substantial information that would lead us to conclude that these factors singularly pose a significant threat to the species.

In addition, the petitioners claimed the species may be killed or injured by vehicles in the springtime at dusk. However, the petitioners provide no data regarding the possible number of beetles killed by vehicles. Additionally, the petitioners asserted that Casey's June beetle may be particularly sensitive to chemicals that interfere with neural or chemosensory functions during the flight season when males are seeking females. However, the petitioners did not provide any citations or documented evidence for this. We have no substantial information that would lead us to conclude that pesticides or toxins pose a significant threat to the species.

The petitioners claimed loss and fragmentation of habitat compromises the ability of the species to disperse and establish new, or augment declining, populations, especially because females have not been observed to fly and males alone cannot establish new populations. Because female Casey's June beetle do not appear to fly, Frank Hovore and Associates (1995) assumed subpopulations of the species ''tend to be localized.'' Hovore (2003) indicated that population movement would be ''slow and indirect,'' and suggested the population structure for Casey's June beetle in any given area is for multiple mini-colonies or ''clusters of individuals around areas of repeated female emergence.'' This would, in Hovore's (2003) assessment, make the species susceptible to extirpation by land use changes that would remove or alter surface features. In their report on the draft Coachella Valley MSHCP, Noss et al. (2001) also expressed concern about the species' ability to adjust its range in response to environmental changes.

The petitioners asserted that having only two population locations and restricted habitat makes Casey's June beetle susceptible to extinction or extirpation from all or a significant portion of its range due to chance events such as fire, flood, drought, or disease (Shaffer 1981, 1987; Primack 1998). The petitioners noted that Palm Canyon Wash is likely ephemeral habitat for the Casey's June beetle and that periodic flooding of the wash would eliminate the species from this site. Between 1978 and 2001, streamflows in Palm Canyon Wash exceeded 1,000 cubic feet (28 cubic meters) per second on four occasions (U.S. Geological Survey 2003). Streamflows of high magnitude could temporarily eliminate the species from portions of the wash (Hovore 2003; Cornett 2004). Furthermore, the petitioners assert that recolonization of the wash would most likely be accomplished by species from the extant habitat on upland terraces, making the upland habitat areas essential for the species' long-term survival (Wright 2003). It is also possible that periodic flooding in Palm Canyon Wash could have a positive impact by depositing detritus downstream that could be used by the species as it recolonizes the area following flood events (Wright 2003). However, conclusive information on such habitat use is not available.

While periodic flooding of Palm Canyon Wash may result in temporary elimination of that portion of the population, the overall impact of periodic flooding on the continued existence of the species is not known. However, given the ephemeral characteristic of habitat in Palm Canyon Wash, the conservation of upland habitat is likely required to maintain the species long term.

The petitioners claimed low numbers of Casey's June beetles make it vulnerable to risks experienced by small, restricted populations, including (1) chance demographic effects (such as skewed sex ratios, high death rates, or low birth rates); (2) the effects of genetic drift and inbreeding; and (3) deterioration in environmental quality (such as increased artificial lighting, swimming pools, or wash channelization). No analyses have been undertaken to estimate a minimum

viable population size for Casey's June beetle, nor is there any substantial information concerning the population dynamics of the species. No information was provided in the petition, and we are not aware of any information regarding any genetic analyses of the species to determine the presence of skewed sex ratios or inbreeding. Therefore, we find the petition, supporting information, and information readily available to the Service does not present substantial information for this factor indicating that the petitioned action may be warranted.

Finding

The petition focused on three of the five listing factors: (A) The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range; (B) the Inadequacy of Existing Regulatory Mechanisms; and (C) Other Natural or Manmade Factors Affecting the Species' Continued Existence. Specifically, under Factor A, the petition indicates the range of the Casey's June beetle has been greatly reduced and is threatened by habitat removal from continued urban development. This is corroborated by information in the Service's files. The petition also presents information under Factor D suggesting that the existing regulatory mechanisms, such as CEQA and NEPA, are inadequate to protect the Casey's June beetle and its habitat. Additionally, while the Casey's June beetle was initially a covered species under the Coachella Valley MSHCP, the finalized version of that plan does not cover the species. The petition also presents information regarding additional threats under Factor E, such as drowning in lighted swimming pools, direct mortality by vehicles, and reduced genetic exchange due to a reduced population size. We are not aware, however, of any substantial information to suggest that any of the threats described under Factor E would threaten the existence of the Casey's June beetle.

According to the petition, five ''imminent'' projects would destroy over 11 percent of Casey's June beetle habitat in Palm Springs. As cited in the petition, two of the five projects (Monte Sereno and El Portal) considered imminent had been approved by the City Council at the time we received the petition in 2004.

After this review and evaluation, we find the petition presents substantial scientific or commercial information indicating that listing of Casey's June beetle may be warranted. Therefore, we are initiating a status review to determine if listing is warranted. To ensure the status review is comprehensive, we are soliciting scientific and commercial information regarding this species. Under the terms of a settlement agreement, we are required to make a 12-month finding determining whether listing the Casey's June beetle is warranted on or before June 30, 2007.

The petitioners also requested critical habitat be designated for this species. We consider the need for critical habitat designation when listing species. If we determine in our 12-month finding that listing of Casey's June beetle is warranted, we will address the designation of critical habitat in a subsequent proposed rule.

References Cited

A complete list of all references cited herein is available, upon request, from the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Author

The primary author of this document is the staff of the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Authority

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

Dated: July 28, 2006.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E6–12579 Filed 8–7–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Hermes Copper Butterfly as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Hermes copper butterfly (*Hermelycaena* [*Lycaena*] *hermes*) as an endangered species under the Endangered Species Act of 1973, as amended. We find the petition does not present substantial scientific or commercial information indicating that listing the Hermes copper butterfly may be warranted. Therefore, are not initiating a status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of the species or threats to it.

DATES: The finding announced in this document was made on August 8, 2006.

ADDRESSES: The complete file for this finding is available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92011. New information, materials, comments, or questions concerning this species may be submitted to us at any time at the above address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section above), by telephone at 760–431–9440, or by facsimile to 760–431–9624. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published in the **Federal Register**.

This finding summarizes information included in the petition and information available to us at the time of the petition review. A 90-day finding under section 4(b)(3)(A) of the Act and § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold. Substantial information 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)).

Previous Federal Action

The Hermes copper butterfly was included as a Category 2 candidate species in our November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982), Candidate Notices of Review (CNOR). Category 2 included taxa for which information in the Service's possession indicated that a proposed