antibody binds to an epitope on gp120 that is induced by interaction between gp120 and the receptor CD4. The X5 antibody also shows strong activity at very low levels (μg/ml concentration). Because it is a human antibody, it can be administered directly into patients so that it is an ideal candidate for clinical trials. Finally, since it has neutralized all virus envelope glycoproteins that were tested against it, the epitope is very conserved and resistance is unlikely to develop. Therefore, this antibody and/or its derivatives are a good candidate for clinical development.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to development of human monoclonal antibody biotherapeutics for the treatment of HIV infections.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 27, 2003.

**Steven M. Ferguson,**

*Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer.*

[FR Doc. 03–5690 Filed 3–10–03; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4814–N–02]**

### Notice of Proposed Information Collection: Comment Request, Section 108 Loan Guarantee Program

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date*: May 12, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7232, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Paul Webster, Director, Financial Management Division (202) 708–1871 (this is not a toll-free number):

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Section 108 Loan Guarantee Program.

*OMB Control Number, if applicable:* 2506–0161.

*Description of the need for the information and proposed use:* The regulations governing the Section 108 program, at 24 CFR 570.704, outline application requirements. The application is necessary in order to render judgment on the eligibility of the activities proposed to be financed with Section 108 loan guarantee assistance and to ensure that the loan guarantee does not pose a financial risk to the Federal government. Information collected pursuant to the application requirements will be reviewed and analyzed by HUD staff at the Field Office and Headquarters level to determine compliance with statutory requirements on eligibility, compliance with national objectives requirements of the CDBG program, and whether the loan guarantee constitutes and acceptable financial risk to the Federal government.

*Agency form numbers, if applicable:* Not applicable.

*Members of affected public:* Units of general local government eligible to apply for loan guarantee assistance under Section 108.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* Section 108 Loan Guarantee Application—

*Number of respondents:* 90.
*Number of responses:* 1.
*Total annual responses:* 90.
*Hours per response:* 125.
*Total:* 11,250.

*Status of the proposed information collection:* Revision of currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 5, 2003.

**Roy A. Bernardi,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 03–5787 Filed 3–10–03; 8:45 am]

**BILLING CODE 4210–29–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Endangered and Threatened Wildlife and Plants; 12-month Finding for a Petition To List the Lower Kootenai River Burbot (*Lota lota*) as Threatened or Endangered

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

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list lower Kootenai River burbot (*Lota lota*), in accordance with the Endangered Species Act of 1973, as amended (Act). After reviewing the best available scientific and commercial information available, we find that the petitioned action is not warranted, because the petitioned entity is not a distinct population segment (DPS) and, therefore, is not a listable entity. We ask the public to submit to us any new information that becomes available concerning the status of or threats to this species. This information will help

us monitor and encourage the conservation of this species.

**DATES:** The finding announced in this document was made on March 3, 2003. Although further listing action will not result from this finding, we request that you submit new information for this species concerning status or threats whenever it becomes available.

**ADDRESSES:** You may send data, information, or questions concerning this finding to the Supervisor, Upper Columbia Fish and Wildlife Office, U.S. Fish and Wildlife Service, 11103 E. Montgomery Drive, Spokane, WA 99206. This 12-month finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Scott Deeds at the above address (telephone 509/893–8007). Information regarding this finding is available in alternate formats upon request.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition seeking to revise the List of Threatened and Endangered Species that contains substantial scientific or commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**.

We have made a 12-month finding on a petition to list the lower Kootenai River burbot (*Lota lota*). The petition, dated February 2, 2000, was submitted by American Wildlands and the Idaho Conservation League and was received on February 7, 2000. The petition requests the emergency listing of Kootenai River burbot in Idaho as endangered and designation of critical habitat concurrent with the listing. On September 28, 2001, we published a 90-day finding for lower Kootenai River burbot in the **Federal Register** (66 FR 49608). We found that the petition presented substantial information indicating that listing may be warranted. This 12-month finding is made in accordance with a judicially approved stipulated settlement agreement that requires us to complete a finding by March 1, 2003 (*American Wildlands and Idaho Conservation League* v. *Badgley, Williams, and Norton,* Case No. CV 02–00118BR). This notice constitutes the 12-month finding for the February 7, 2000, petition.

Burbot, also referred to as eelpout, layer, or ling, are a cold-water, bottom-dwelling fish species and are the only freshwater member of the otherwise marine cod family (Gadidae). Burbot are extremely elongate or eel-like. Back body coloration is with marbled and ranges from dark olive to brown, contrasting with brown or black. The sides of the body are lighter than the back, and the belly is yellowish white (Simpson and Wallace 1982). Burbot have a distinguishing single slender barbel on the chin. Burbot may reach 1 meter (39.4 inches) in length, can weigh up to about 8 kilograms (17.6 pounds), and have a life expectancy up to 20 years (McPhail and Paragamian 2000).

Most information suggests that river-spawning burbot prefer low-velocity areas in main channels or in side channels behind deposition bars, with the preferred substrate consisting of fine gravel, sand, and even fine silt (Fabricius 1954 in McPhail and Paragamian 2000; McPail and Paragamian 2000). Spawning is also known to occur in small tributary streams and is generally believed to take place at night (Simpson and Wallace 1982; McPhail and Paragamian 2000).

Female burbot are larger than males and, depending on their size, may produce between 50,000 and 1,500,000 eggs each per spawn (Simpson and Wallace 1982). Burbot are known to occur as annual or alternating year spawners (Arndt and Hutchinson 2000; Evenson 2000). Male burbot typically reach sexual maturity in 3 to 4 years, with females maturing in 4 to 5 years (Bonar *et al.* 1997; Arndt and Hutchison 2000; Eveson 2000). During spawning, burbot typically collect in a large mass referred to as a spawning ball, with one or more females in the center surrounded by many males (Simpson and Wallace 1982; McPhail and Paragamian 2000). There is no site preparation during spawning, and eggs are broadcast into the water column well above the substrate. The eggs are semibuoyant and eventually settle into cracks in the substrate. Newly hatched burbot drift passively in open water until they develop the ability to swim (McPhail and Paragamian 2000). Young burbot initially select shoreline areas among rocks and debris for feeding and habitat security.

Burbot prefer cold water and, during summer months, move to the hypolimnion (lower zone of a thermally stratified lake) areas of lakes or deep water pools of large rivers (Simpson and Wallace 1982). Feeding is mostly done at night, with adult burbot feeding almost exclusively on a fish diet. Young burbot feed on aquatic organisms such as insects, amphipods, snails, and small fish (Simpson and Wallace 1982). Burbot are most active in the winter, during which some populations move great distances to spawn, and are rather sedentary during the non-spawning seasons.

The geographic range of burbot is circumpolar and extends in an almost continuous distribution from the British Isles eastward across Europe and Asia to the Bering Strait (Berg 1949 in McPhail and Paragamian 2000). On the North America side of the Bering Strait, burbot range eastward from the Seward Peninsula in Alaska (McPhail and Lindsey 1970 in McPhail and Paragamian 2000) to New Brunswick on the Atlantic coast (Scott and Crossman 1973).

Burbot were first described in Europe by Linnaeus in 1758 (American Fisheries Society 1991). Burbot in North America, known as *Lota lacustris* (Walbaum), were originally considered to be a separate species from those in Europe, known as *Lota lota* (Linnaeus) (McPhail and Paragamian 2000). Gunther (1862 in McPhail and Paragamian 2000) later reduced all burbot to a single widespread species. Hubbs and Shultz (1941 in McPhail and Paragamian 2000), then argued on the basis of morphological differences, that at least three subspecies existed: *Lota lota lota* in Europe and most of Siberia; *Lota lota lacustris* (also referred to as *Lota lota maculosa*) in eastern North America; and a new subspecies, *Lota lota leptura*, in northwestern North America and eastern Siberia. Pivnicka (1970 in Van Houdt and Volckaert in draft 2002) performed additional morphological analyses of European burbot populations and determined these were apparently the same as the *Lota lota maculosa* form in North America. Pivnicka, therefore, concluded that burbot include two distinct forms: *Lota lota lota*, which occurs from the Volga River system throughout Siberia and Alaska to the Mackenzie River system in Canada, and the populations in the Elbe and Danube River, which lived peripherally to this subspecies; and *Lota lota maculosa*, which occurs in southernmost Canada, the United States, and western Europe. However, many recent authors have not used this subspecies designation and only recognize burbot to the species level (McPhail and Paragamian 2000).

Most species whose preglacial ranges were fragmented by glaciation show geographic patterns in morphology that suggest survival in multiple refugia

(McPhail and Lindsey 1970 in McPhail and Paragamian 2000). This interpretation is supported by recent molecular studies (Taylor and Dodson 1984; Billington and Hebert 1988; Grewe and Hebert 1988; Bernatchez and Dodson 1991; all in McPhail and Paragamian 2000). Chen (1969 in McPhail and Paragamian 2000) demonstrated that burbot from the interior of Alaska (Hubbs and Schultz's *Lota lota leptura*) consistently differ in a number of morphological traits from burbot found elsewhere in North America. These findings, coupled with past morphological studies, suggest that variation in *Lota lota* has geographic patterning and, consequently, treating all burbot as a single entity may be inappropriate (McPhail and Paragamian 2000).

In order to clarify the genetic variation of burbot throughout their wide-ranging distribution, researchers from Belgium initiated a study to test the many hypotheses related to burbot phylogeography. The mitochondrial cytochrome b from 41 populations (18 in North America and 23 in Eurasia) of burbot was sequenced (Van Houdt and Volckaert in draft 2002). Their study observed two distinct phylogroups within the genus *Lota*; a palearctic group distributed from Europe to Northern Canada, and a neararctic group in the remaining parts of North America, with both groups co-occurring in the Great Slave Lakes, Northwest Territories. The distribution pattern of the palearctic group is nearly congruent to that of the subspecies designation previously discussed as *Lota lota lota* (Van Houdt and Volckaert in draft 2002). However, the genetic analyses does not support including burbot that occur in western Europe in the subspecies *Lota lota maculosa*, as previously concluded by Pivnicka. Therefore, the neararctic group of burbot only occur in a portion of North America and are designated as *Lota lota maculosa* (Van Houdt and Volckaert in draft 2002). Within the neararctic phylogroup, three different clades (taxonomic groupings of organisms that share common ancestry) were observed, the presence of which supports the suggested glacial refugia hypothesis for burbot in North America. The three clades are referred to as the Pacific clade, the Missouri clade, and the Mississippi clade (Van Houdt and Volckaert in draft 2002).

Further, Van Houdt (pers. comm., 2002) indicated that burbot in the lower Kootenai River (the lone area sampled from the Pacific clade) are genetically distinct from burbot in the other clades in North America, as well as being genetically distinct from the palearctic group of burbot that occur in northern Canada, Alaska, Europe, and Asia (Van Houdt and Volckaert in draft 2002). However, this distinction was based on a small sample size and is only an indication of the existence of a separate glacial race (Van Houdt, pers. comm., 2002). Furthermore, we have no evidence that the genetic profile of lower Kootenai River burbot is unique relative to other burbot in the neararctic range. It should also be noted that the results of this research do not include samples from all major drainage basins in North America, and that a detailed phylogeographic analysis that determines exact distribution of each glacial race is needed to gain insight with regard to the evolutionary relationship of burbot throughout the neararctic region.

Considering these findings and past morphological findings for burbot that suggest divergence, we determined that recognizing the two subspecies *Lota lota maculosa* and *Lota lota lota* for this finding is appropriate. We therefore evaluated lower Kootenai River burbot as they compare to other burbot in the neararctic region or to *Lota lota maculosa*.

Burbot that occur in the Kootenai River basin exhibit three life history strategies in several isolated groups. The first life history strategy is represented by the lower Kootenai River burbot population, which spends a portion of its life in the South Arm of Kootenay Lake, British Columbia, and then migrates up the Kootenai River during the winter months to spawn in the mainstem river or tributary streams in British Columbia or Idaho (adfluvial life form). The second life history strategy is represented by burbot occurring further upstream in the Kootenai River above Kootenai Falls, which have a fluvial (riverine) life history (Paragamian *et al.* 1999). That is, they migrate within the river and to tributary streams for spawning. We also considered burbot that occur in Lake Koocanusa (a reservoir) to be fluvial, because they evolved with a fluvial life history prior to the construction of Libby Dam. We considered this population to be fluvial because it is currently unclear how readily burbot populations adopt a different life history strategy when faced with changing environmental conditions, and we did not believe it was appropriate to compare naturally occurring adfluvial populations of burbot to burbot that now have some adfluvial characteristics as the result of a human-created reservoir. The third life history strategy is represented by the only known lacustrine (spending entire life cycle in the lake) population in Kootenay Lake, which occurs in the North Arm of Kootenay Lake (Spence 1999). Prior to dramatic declines of burbot in Kootenay Lake, a population was believed to have spawned at the inlet of the West Arm of Kootenay Lake, but this population has completely collapsed and is now believed to be extirpated (Spence 1999; Baxter *et al.* 2002; Colin Spence, MWLAP, pers. comm., 2001; Paragamian, pers. comm., 2000).

Lower Kootenai River burbot spawn during the winter months, and under natural conditions (pre-dam), spawning occurs under ice at temperatures near or below 1 °C (34 °F) (Paragamian *et al.* 2000; Simpson and Wallace 1982). They generally begin migrating up the Kootenai River in November and travel as far as 120 kilometers (km) (75 miles (mi)) to traditional spawning sites (Paragamian 2000). Spawning commences in late January and continues through early February and lasts for only 2 to 3 weeks, as both gamete (egg and sperm) maturation and arrival to spawning sites are highly synchronous (Paragamian 2000; Kozfkay and Paragamian 2002; Arndt and Hutchison 2000; Eveson 2000).

The lower Kootenai River once supported a significant number of burbot, which provided a very important winter fishery to the region. Declines were first documented in the burbot fishery around 1960, but numbers were still considered stable into the early 1970s. However, within only a few years, a dramatic decline in the burbot population was documented. Despite numerous fishing regulations implemented to reduce threats to burbot, their numbers continued to decline almost to extirpation, and the fishery was closed to fishing in the early 1990s. Based on data collected from the autumn of 1995 through the spring of 2000, the population is estimated to consist of roughly 540 adults (Kozfkay and Paragamian 2002).

Under the Act, we must consider for listing any species, subspecies, or, for vertebrates, any distinct vertebrate population segment (DPS) of these taxa if sufficient information exists to indicate that such action may be warranted. To implement the measures prescribed by the Act, we, along with the National Marine Fisheries Service, developed a joint policy that addresses the recognition of DPS for potential listing actions (61 FR 4722). The policy allows for a more refined application of the Act that better reflects the biological needs of the taxon being considered, and avoids the inclusion of entities that do not require its protective measures.

The petitioners requested listing of the Kootenai River burbot as an endangered species throughout its range in the Kootenai River and spawning tributaries in Idaho, on the basis of threats to the population and its potential isolation from the remainder of the taxon. We considered this request because, while we do not base listing decisions on political subdivisions other than international boundaries, we must consider for listing under the Act any population of vertebrate taxa (species or subspecies) if it may represent a DPS. In our 90-day administrative finding for the subject petition (66 FR 49608, September 28, 2001), we recognized that burbot in Idaho are part of a transboundary population, spending a portion of their life cycle in the South Arm of Kootenay Lake and the lower Kootenai River in British Columbia. In addition, the available information indicated that this population segment is separated behaviorally from the only other burbot population remaining in Kootenay Lake's North Arm, primarily because of the populations' to their differing life history strategies. Finally, we recognized that lower Kootenai River burbot do not use the Kootenai River in the segment that runs from a point upstream from approximately Bonners Ferry, Idaho, to just below Kootenai Falls in Montana, because of the presence of naturally unsuitable habitats. Therefore, the geographic area considered for our status review, and addressed by the following DPS analysis, includes the South Arm of Kootenay Lake and the lower Kootenai River from its mouth upstream to Bonners Ferry, Idaho.

In accordance with our DPS policy (61 FR 4722), we use two elements to assess whether a population segment under consideration for listing may be recognized as a DPS. The elements are (1) the population segment's discreteness from the remainder of the species to which it belongs and (2) the significance of the population segment to the species to which it belongs.

**Discreteness**

Discreteness refers to the separation of a population segment from other members of the taxon based on either (1) physical, physiological, ecological, or behavioral factors or (2) international boundaries that result in significant differences in control of exploitation, habitat management, conservation status, or regulatory mechanisms.

The lower Kootenai River burbot have been historically isolated from the burbot population within the upper Kootenai River by natural barriers, which consist of (1) a narrow canyon with a higher gradient that causes an increased water velocity from approximately Bonners Ferry (river km (rkm) 246 (river mi (rm) 153)) to Kootenai Falls (rkm 310 (rm 193)) and (2) the Kootenai Falls themselves. Downstream movement by burbot over Kootenai Falls is possible; however, none of the more than 400 burbot tagged in Montana above Kootenai Falls have been recaptured downstream in Idaho or British Columbia (Paragamian *et al.* 1999). In contrast, 40 of the 266 burbot tagged in the lower Kootenai River have been recaptured in the same sampling areas (Diane Wakkinen, Idaho Department of Fish and Game, pers. comm., 2002). While not conclusive, if tagged burbot from Montana moved downstream over Kootenai Falls and into the lower Kootenai River, we expect that they would also be recaptured. In addition, isolation of lower Kootenai River burbot from the population above Kootenai Falls is further supported by recent genetic analyses that indicate these two populations differ genetically (Paragamian *et al.* 1999). Even so, our DPS policy does not require absolute reproductive isolation as a prerequisite to recognizing a DPS. Therefore, even if a low level of genetic exchange existed between burbot populations within the Kootenai River basin, it would not necessarily preclude a determination of discreteness.

The available information also indicates that lower Kootenai River burbot are behaviorally different from other burbot populations in the Kootenai River basin due to their adfluvial life history strategy (Northcote 1973; Paragamian *et al.* 1999). The only other known remaining burbot reproduction that occurs within Kootenay Lake is from the remnant lacustrine population in the North Arm (Spence 1999). While mixing of the lacustrine fish and the adfluvial fish may have occurred in the past, the available information suggests that these two burbot populations do not currently interact (Paragamian, pers. comm., 2000; Spence 1999). Telemetry studies of lower Kootenai River burbot indicate that these fish primarily use the delta area near the mouth of the Kootenai River, and no fish have been tracked moving as far north as the West Arm of Kootenay Lake. In addition, telemetry studies of lacustrine burbot indicate that these fish do not distribute throughout the lake, but stay within the area of the North Arm (Paragamian, pers. comm., 2000; Spence 1999).

Spawning time for the lacustrine form of burbot in the North Arm of Kootenay Lake is approximately 1 month later than the adfluvial form in the lower Kootenai River (Spence 1999; Paragamian 2000; Kozfkay and Paragamian 2002). In addition, the burbot that previously occurred in the West Arm of Kootenay Lake were believed to have commenced spawning in April, and spawning may have continued from mid-May to mid-June (Martin 1976 in Redfish Consulting Ltd 1998; Martin 1977 in McPhail and Paragamian 2000). Because both gamete maturation and arrival at spawning sites are known to be highly synchronous in burbot (Arndt and Hutchison 2000; Evenson 2000), it is likely that the disparity in spawning periods between the various populations effectively isolates them reproductively from one another.

Finally, with regard to the remainder of the subspecies' range, Kootenai Falls in Montana forms an upstream barrier to burbot movement, while Bonnington Falls in British Columbia, which is downstream from Kootenay Lake and above the confluence with the Columbia River, forms a downstream barrier. These two barriers have been in place since at least the last period of glaciation (roughly 10,000 years before present).

On the basis of available information, we conclude that the lower Kootenai River burbot is discrete from other populations of the same taxon as a consequence of physical, ecological, and behavioral factors. Therefore, we considered the potential significance of this discrete population to the remainder of the taxon.

**Significance**

Under our DPS policy, once we have determined that a population segment is discrete, we consider its biological and ecological significance to the larger taxon to which it belongs. This consideration may include, but is not limited to: (1) Evidence of the persistence of the discrete population segment in an ecological setting that is unique for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; and (4) evidence that the discrete population segment differs markedly in its genetic characteristics from other populations of the species.

As previously discussed, burbot distribution is circumpolar, and burbot are well distributed in North America and northern Eurasia. The species' range in North America includes the majority

of mainland Canada, Alaska, and many of the contiguous northern United States. While burbot in North America (*Lota lacustris,* Walbaum) were originally considered a separate species from those in Europe (*Lota lota,* Linnaeus), they have since been reduced to a single species throughout their range. However, the available information supports the recognition of two distinct lineages, or subspecies, which are: the palearctic group of northern Canada, Alaska, and Eurasia (*Lota lota lota*), and the neararctic group in the remainder of North America (*Lota lota maculosa*), which includes the lower Kootenai River burbot. On the basis of available information, we considered the following factors with regard to the potential significance of the lower Kootenai River burbot to the remainder of the nearactic subspecies (*Lota lota maculosa*):

*Ecological Setting:* Neararctic burbot occupy numerous and varied lake, riverine, and tributary systems throughout their distribution in the northern United States and Canada. At the commencement of our status review for the subject petition, very little information was available regarding the potential uniqueness or unusual nature of the ecological setting occupied by lower Kootenai River burbot in relation to the remainder of the neararctic region. In addition, little such information has since been provided or otherwise obtained during the course of our status review. The petitioners assert that the Kootenai River population of burbot exists in a unique and unusual ecological setting because two genetically distinct populations are in the same river: those that occur in the lower Kootenai River and those that occur in the Kootenai River above Kootenai Falls. However, genetic differences can occur in the absence of unique or unusual ecological settings, and the available information does not indicate that any unique or unusual ecological features have contributed to the genetic differentiation that may be occurring in these burbot. Furthermore, no information is available to indicate that having two genetically distinct populations in the same river basin is unique for this species.

The petitioners further assert that the loss of these burbot would be a loss of a rare population at the southern edge of the species' range and that other Columbia River burbot populations may likewise be at risk of extirpation. We disagree based on the information currently available. First, populations of burbot are still found in Indiana, Kentucky, Ohio, Michigan, Minnesota, South Dakota, Wisconsin, and Wyoming, all of which also represent the southern extent of the species' distribution. Second, currently available information is not sufficient to enable us to determine if other burbot populations within the Columbia River system may be at risk of extirpation.

On the basis of available information, we conclude that burbot likely occupy a wide variety of habitats throughout their range, and that there are no indications of any unique or unusual ecological features within the lower Kootenai River basin. Therefore, we do not currently consider the ecological setting occupied by the discrete population of burbot within the lower Kootenai River as significant to the remainder of the taxon.

*Significant Gap in Range:* Loss of the lower Kootenai River burbot, as compared to burbot throughout the remainder of the neararctic region, would mean the loss of less than 1 percent of the entire range of the taxon. In addition, when we consider either the historic or current distribution of lower Kootenai River burbot, we determine that loss of this population segment would not isolate one or more otherwise contiguous populations of burbot within the Kootenai River basin. On the basis of the above information, we conclude that loss of the lower Kootenai River burbot would not represent a significant gap in the range of the taxon.

*Genetic Characteristics:* We reviewed three available studies, in various stages of completion, that address the genetic differentiation of burbot across portions of the taxon's range. One investigated the genetic characteristics of burbot populations within the Kootenai River basin (Paragamian *et al.* 1998), a second addressed genetic differentiation west and east of the continental divide (Dalby, pers. comm., 2002), and a third addressed genetic differentiation of burbot populations across the entire range of the species, and was conducted to help clarify the species' phylogenetic history and potential taxonomic relationships (Van Houdt and Volckaert in draft 2002). All of these investigations identified several common, rare, and/or unique haplotypes, from mitochondrial deoxyribonucleic acid (mtDNA), among burbot populations. In addition, these studies indicate that haplotype frequencies and the level of genetic diversity likely also vary among the local and regional populations of burbot sampled. Finally, these studies indicate that geographic patterning in the genetic profiles of burbot are apparent and consistent with known or suspected glacial refugia.

The results suggest that genetic differences between burbot populations in this region may be occurring. The referenced studies rely on relatively limited sample sizes and lack information from key population segments and/or other major drainages occupied by neararctic burbot. Therefore, these investigations are likely to be confounded by the effects of small population size, genetic drift, and/or sampling bias, and the differentiation patterns noted may similarly reflect the potential negative consequences of isolation, range contraction, and/or recent significant declines of local burbot populations. As such, to what extent the forces of isolation, adaptive change, genetic drift, and/or inbreeding may have influenced the genetic profiles of neararctic burbot populations, including those that remain within the Kootenai River basin, is uncertain. Results of the genetic studies further demonstrate the discreteness of the lower Kootenai River burbot; however, they do not indicate that genetic differentiation of this population segment is significant to the remainder of the taxon. No information at this time concludes that the genetic difference that is presented in the studies is anything more than what would be expected from such a wide-ranging species. More comprehensive behavioral, morphological, ecological, and genetic studies of burbot are needed to help clarify whether the currently observed differences may be significant to the evolutionary legacy of the neararctic taxon.

*Life History/Behavior:* As previously discussed, the lower Kootenai River burbot does exhibit a different adfluvial life history strategy compared to other locally known neararctic burbot populations. For example, lower Kootenai River burbot travel greater distances to traditional spawning sites (greater than 100 km (62 mi)) than other known adfluvial burbot, which typically travel between 1 and 25 km (0.6 and 15.5 mi). In addition, lower Kootenai River burbot begin their migration 2 to 3 months prior to spawning and spawn at least 1 month earlier than other burbot populations within the Kootenai River basin. However, their spawning time occurs within the wide range of spawning periods observed throughout the entire range of burbot. Given the circumpolar distribution of the neararctic burbot, it is likely that a wide range of behavioral differences are exhibited within the species range. Since it is unclear how pliable burbot behavioral patterns may be, and how readily, or whether, burbot populations

may adopt a different life history strategy when faced with changing environmental conditions. However, because we currently have very little information addressing the life history and behavioral patterns of other burbot populations throughout the nearactic region, and specifically the relative importance of the adfluvial life history strategy, we do not know if these behaviors are unique to the species as a whole.

On the basis of available information, we determined that the life history and behavioral characteristics of lower Kootenai River burbot do make it discrete from other burbot populations in the local area, but, pursuant to our DPS policy, do not make it significant to the remainder of the taxon, as we have little information to indicate these characteristics are unique to the rest of the taxon.

Consequently, following a review of the available information, we conclude that the population segment of lower Kootenai River burbot is not significant to the remainder of the taxon. We made this determination because there is no evidence that: (1) This population segment persists in an ecological setting that is unique for the taxon; (2) the loss would result in a significant gap in the range of the taxon; or (3) this population segment differs markedly from other populations of the species in its genetic characteristics. Further, we do not have sufficient information to indicate that the life history and behavioral characteristics of this population segment are unique to the taxon. Furthermore, we acknowledge that, while the precise biological and ecological importance of a discrete population segment is likely to vary considerably from case to case, we were unable to identify any additional classes of information that might bear on the biological and ecological importance of this discrete population segment.

### Finding

We have assessed the best scientific and commercial information available regarding the discreteness and significance of lower Kootenai River burbot. We reviewed the petition, information available in our files, and other published and unpublished information submitted to us during the public comment period following our 90-day petition finding, and we consulted with recognized burbot experts and other Federal and State resource agencies. On the basis of the best scientific and commercial information available, we conclude that the lower Kootenai River burbot does not represent a DPS, and is therefore not a listable entity. Our review did indicate that the lower Kootenai River burbot is discrete from other burbot populations, but was not significant to the remainder of the taxon. This finding is primarily based on a lack of sufficient evidence to demonstrate that lower Kootenai River burbot have marked genetic, ecological, or behavioral differences when compared with the remainder of the neararctic subspecies. As such, we find that the petitioned action is not warranted.

### References Cited

A complete list of all references cited herein is available on request from the Upper Columbia Fish and Wildlife Office (*see* **ADDRESSES**).

### Author

The primary author of this document is Scott Deeds (*see* **ADDRESSES**).

### Authority

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

Dated: March 3, 2003.

**Steve Williams,**

*Director, Fish and Wildlife Service.*

[FR Doc. 03–5737 Filed 3–10–03; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Baca National Wildlife Refuge

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** The Director intends to accept the transfer of 3,315 acres of land from the Bureau of Reclamation on April 8, 2003, to establish the Baca National Wildlife Refuge in Alamosa County, Colorado.

**DATES:** This action will be effective on April 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Michael Blenden, Project Leader, Alamosa/Monte Vista National Wildlife Refuge Complex, 9383 El Rancho Lane, Alamosa, Colorado 81101: telephone: 719/589–4021, fax: 719/587–0595, e-mail: *mike_blenden@fws.gov.*

**SUPPLEMENTARY INFORMATION:** The Director of the U.S. Fish and Wildlife Service has determined that sufficient land is available to establish the Baca National Wildlife Refuge. The Refuge will be administrated in accordance with the National Wildlife Refuge Administration Act of 1966 and the Act of September 28, 1962 commonly known as the Refuge Recreation Act. The establishment of the Refuge will protect water resources; protect and maintain water rights for the protection of monument, park, preserve, and refuge resources and uses; and minimize, to the extent consistent with the protection of national wildlife resources, adverse impacts on other water users.

**Authority:** This notice is published under the authority of the Great Sand Dunes National Park and Preserve Act of 2000, Pub. L. 106–530, and the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C., 668dd-668ee).

Dated: February 21, 2003.

**John A. Blankenship,**

*Regional Director, Region 6, Denver, Colorado.*

[FR Doc. 03–5701 Filed 3–10–03; 8:45 am]

**BILLING CODE 4310–55–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 701–TA–433 (Preliminary) and 731–TA–1029 (Preliminary)]**

## Allura Red Coloring From India

**AGENCY:** International Trade Commission.

**ACTION:** Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping duty investigations Nos. 701–TA–433 (Preliminary) and 731–TA–1029 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of allura red coloring, provided for in subheading 3204.12.50 of the Harmonized Tariff Schedule of the United States,[1] that are alleged to be subsidized by the Government of India and that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and 19 U.S.C.

[1] The subject product is described for tariff purposes as FD&C Red No. 40.