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May 5, 2008

Lynn M. Lewis,  
Assistant Regional Director  
Ecological Services  
US Fish & Wildlife Service  
Bishop Henry Whipple Federal Building  
3 Federal Drive  
Ft. Snelling, MN 55111-4056

Re: 73FR14950

Dear Ms. Lewis,

We are in receipt of your letter dated May 2, 2006, to “Dear Interested Party” regarding the March 20 notice in the Federal Register (73FR14950) regarding the 90-day finding on our petition to list the Coaster Brook Trout as Endangered under the ESA.

We are extremely disappointed in your decision not to hold hearings on this matter, after making the offer to do so in the notice referenced above. While the offer may or may not have been in error, it was in fact made, and the Service has received dozens of requests to do so from interested organizations and individuals, including ourselves.

Referenced in your letter of May 2 was Section 4(b)(5) of the ESA, which requires hearings on rulemaking, and the explanation that this is not a rulemaking, therefore hearings are not required. However, there was no reference to any section of the ESA which *prohibits* hearings on 90-day findings.

Since the offer of hearings was made, and since there is no prohibition on doing so, we urge you to hold such a hearing. Also, since as noted, there have been dozens of requests, we believe that it would be only appropriate to hold said hearing, and to do so in the Marquette County area.

Further, it is clear from the wording of the Federal Register Notice and from ESA Section 4(b)(5) that this was not an error of mistaking the 90-day finding for a

rulemaking. The Federal Register Notice asked for “requests for a hearing” by May 5, 2008. Section 4(b)(5) *requires* a hearing, so no requests would be needed.

We strongly urge you to hold a hearing, as offered in the Federal Register Notice, and to do so in Marquette County, Michigan.

If you have any questions, please feel free to contact me.

Sincerely,

Marvin Roberson  
Forest Ecologist  
Michigan Sierra Club  
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