

business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554 and through the Commission's Electronic Filing System (ECFS) accessible on the Commission's World Wide Web site, <http://www.fcc.gov>.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. All parties are encouraged to utilize a table of contents, and to include the name of the filing party and the date of the filing on each page of their submission. We also strongly encourage that parties track the organization set forth in this *NPRM* in order to facilitate our internal review process.

Commenters who file information that they believe is proprietary may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. *See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, 14 FCC Rcd 20128 (1999).* Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See 47 CFR 0.461; 5 U.S.C. 552.* We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

Further Information

For further information regarding this proceeding, contact Arthur Lechtman, Attorney, Satellite Division, International Bureau at (202) 418-0719. Information regarding this proceeding and others may also be found on the Commission's Web site at <http://www.fcc.gov>.

Ordering Clauses

Accordingly, *It is ordered that*, pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(c),

303(f), 303(g), 303(r), 303(y), and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, this Notice of Proposed Rulemaking is adopted.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center shall send a copy of this Notice of Proposed Rulemaking, including the initial regulatory flexibility analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (1981).

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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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 Delist the Idaho Springsnail; 90-Day Finding on a Petition To List the Jackson Lake Springsnail, Harney Lake Springsnail, and Columbia Springsnail; and Initiation of a 5-Year Review for the Idaho Springsnail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of two 90-day petition findings and initiation of status review for two 12-month findings and one 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove (first petition) the Idaho springsnail (*Pyrgulopsis idahoensis*) from the Federal List of Endangered and Threatened Wildlife and Plants (List) pursuant to the Endangered Species Act (Act), as well as a 90-day finding on a petition to add (second petition) the Jackson Lake springsnail (*P. robusta*), Harney Lake springsnail (*P. hendersoni*), and Columbia springsnail (*P. spp. A*) to the List as endangered or threatened. We find the first petition presents substantial scientific information that delisting the Idaho springsnail may be warranted. We also

find that the second petition presents substantial scientific information that listing the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail may be warranted.

We are requesting submission of any new information on the Idaho springsnail since its original listing as an endangered species in 1992, and information on the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail. Following this 12-month status review, we will issue 12-month findings on the petition to delist the Idaho springsnail and the petition to list the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. We are therefore electing to conduct these reviews simultaneously. At the conclusion of these reviews, we will issue the 12-month findings on the petitions, as provided in section 4(b)(3)(B) of the Act, and make the requisite recommendation under section 4(c)(2)(B) of the Act based on the results of the 5-year review for the Idaho springsnail.

DATES: The finding announced in this document was made on April 20, 2005. To be considered in the 12-month findings for these delisting or listing petitions, or the 5-year review, comments and information should be submitted to us by June 20, 2005.

ADDRESSES: Data, information, comments, or questions concerning these petitions and our finding should be submitted to the Field Supervisor, Attention: Idaho Springsnail comments, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Suite 368, Boise, ID 83709. Comments may also be faxed to 208/378-5262, or e-mailed to fw1srboacomment@fws.gov. Please include "Idaho Springsnail Comments" in the subject line for faxes and e-mails. Please submit electronic comments in ASCII file format, and avoid the use of special characters and encryption. The petitions, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Lysne, Fish and Wildlife Biologist, at the above address (telephone 208/378-5243 or e-mail steve_lysne@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act) requires that

we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial data indicating that the petitioned action may be warranted. To the maximum extent practicable, we must make the finding within 90 days of our receipt of the petition, and must promptly publish the finding in the **Federal Register**. If we find substantial information exists to support the petitioned action, we are required to promptly commence a status review of the species (50 CFR 424.14).

“Substantial information” is defined in 50 CFR 424.14(b) as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.” Petitioners need not prove that the petitioned action is warranted to support a “substantial” finding; instead, the key consideration in evaluating a petition for substantiality involves demonstration of the reliability and adequacy of the information supporting the action advocated by the petition.

The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. We may delist a species only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened. Delisting may be warranted as a result of: (1) Extinction, (2) recovery, and/or (3) a determination that the original data used for classification of the species as endangered or threatened were in error.

In making these findings for the Idaho springsnail (*Pyrgulopsis idahoensis*), Jackson Lake springsnail (*P. robusta*), Harney Lake springsnail (*P. hendersoni*), and Columbia springsnail (*P. spp. A*), we rely on information provided by the petitioners and evaluate that information in accordance with 50 CFR 424.14(b). The content of these findings summarize that information included in the petition and that which was available to us at the time of the petition review. Our review for the purposes of 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 scientific information” threshold. We do not conduct additional research at this point, nor do we subject the petition to rigorous critical review. Rather, as the Act and regulations contemplate, at the 90-day finding, the key consideration in evaluating a petition involves demonstration of the reliability and adequacy of the information supporting the action advanced by the petition.

Our findings are that the petitions state a reasonable case for delisting (first petition) and listing (second petition) on their face based on the taxonomic information that is presented in the petitions. Thus, in these findings, we express no view as to the ultimate issue of whether the Idaho springsnail should be delisted, or whether the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail should be listed. We can come to a conclusion on those issues only after a more thorough review of the species’ status. In that review, which will take approximately 9 more months, we will perform a rigorous critical analysis of the best available scientific information, not just the information in the petition. We will ensure that the data used to make our determination as to the status of the species is consistent with the Act and the Information Quality Act.

We listed the Idaho springsnail as endangered on December 14, 1992 (57 FR 59244). We determined that the free-flowing, cool water environments required by the Idaho springsnail were altered by deteriorating water quality due to reservoir development, river diversions, and habitat modification (57 FR 59244). The Idaho springsnail was described as existing in the main-stem Snake River from the C.J. Strike Reservoir (river mile 518) to Bancroft Springs (river mile 553), a nearly 80 percent reduction from the species’ historic distribution in the Snake River based on the existing literature (Frest 1991). We published the Snake River Aquatic Species Recovery Plan, which included the Idaho springsnail, in 1995. Critical habitat has not been designated for the Idaho springsnail.

Review of Petitions

On June 28, 2004, we received a petition from the State of Idaho, Office of Species Conservation, and the Idaho Power Company requesting that the Idaho springsnail be removed from the List based on a taxonomic reappraisal that indicated it is no longer a separate species. The delisting petition cites a recent peer-reviewed article, published in *The Veliger*, titled “Taxonomic Reappraisal of Species Assigned to the North American Freshwater Gastropod Subgenus *Natricola* (Rissooidea: Hydrobiidae)” (Hershler and Liu 2004). Hershler and Liu (2004) evaluated the taxonomic status of the Idaho springsnail, Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail and recommended placing all four species into *P. robusta* (Hydrobiidae: Walker 1908). The distribution of *P. robusta* is “broadly ranging in the northwestern United

States, including parts of the Snake-Columbia River basin and several closed basins in southeastern Oregon. Habitats include springs and spring-fed streams as well as large rivers” Hershler and Liu (2004).

On August 5, 2004, we received a petition from Dr. Peter Bowler, the Biodiversity Conservation Alliance, Center for Biological Diversity, Center for Native Ecosystems, Western Watersheds Project, and The Xerces Society, requesting that the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail be added to the List. This listing petition cites habitat loss and degradation from spring development, domestic livestock grazing, groundwater withdrawal, water pollution, dams, predation, the introduction and spread of nonnative species, and inadequate Federal and State regulatory mechanisms as threats to the continued existence of these other three northwestern springsnail species. The listing petition also cites Hershler and Liu (2004) and their suggested taxonomic revision, and acknowledges that the Idaho springsnail, Jackson Lake springsnail, Harney Lake springsnail, Columbia springsnail may be one species (*Pyrgulopsis robusta*). However, the listing petition contends that Hershler and Liu (2004) overlooked key differences between the four species, and states that whether assessed individually or as one species, all four springsnails need the protection of the Act.

Hershler and Liu (2004) suggested three lines of evidence to support changing the taxonomic classification of the Idaho springsnail. Morphology, mitochondrial DNA sequences, and nuclear DNA sequences were used to evaluate the relationship between previously recognized species in the subgenus. Results from the morphology analysis found a significant difference between the ratio of shell height to height of body whorl between the Idaho springsnail and all other species tested. However, several other morphological metrics, including the position of the callus (hardened tissue) on the operculum (serves as a cover for the opening in the shell), the shape of the central cusp of the central teeth, the number of cusps on central teeth, notching of inner marginal teeth, number of cusps on outer marginal teeth, the male penial features, and female genitalia did not differ substantially. The genetic data found very little variation in the partial cytochrome c oxidase (COI) gene (mitochondrial DNA). Differences ranged from 0.0–0.8 percent (0–5 base

pairs) within the *Natricola* subgenus to 2.6–6.9 percent (16–43 base pairs) with outgroups in the genus *Pyrgulopsis*. This suggests that genetic variation within *Natricola* differed little compared to genetic variation between *Natricola* and other species of *Pyrgulopsis*. In addition, differences in the internal transcribed spacer (ITS–1) sequences (nuclear DNA) within the *Natricola* subgenus were substantially smaller (0.0–0.6 percent) compared to differences among other congeners (5.9–20.4 percent). These two lines of evidence suggest that differences among the four species are very small compared to differences between other recognized taxa within the larger genus.

The authors then contend that “three independent data sets (morphology, mitochondrial, and nuclear DNA sequences) congruently suggest that these four *Natricola* snails do not merit recognition as distinct species according to various currently applied concepts of this taxonomic rank.”

In addition to the taxonomic revision, Hershler and Liu (2004) noted that the Jackson Lake springsnail was a former Service candidate for threatened or endangered species status. They state that it may be currently threatened by the presence of the exotic New Zealand mudsnail (*Potamopyrgus antipodarum*) in the Pacific Northwest. Also, Hershler and Liu (2004) noted that the Harney Lake springsnail is designated as a critically imperiled species by the Oregon Natural Heritage Program, and the middle Snake River population of the Idaho springsnail is genetically isolated from other populations.

Finding

We have reviewed the delisting and listing petitions and their supporting documents, as well as other information in our files. We find that the delisting petition and other information in our files present substantial information that delisting the Idaho springsnail may be warranted. We also find that the listing petition and other information in our files present substantial information that listing the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail may be warranted. We are initiating a status review of all four species. We will issue 12-month findings in accordance with section 4(b)(3)(B) of the Act as to whether or not delisting is warranted (first petition) and/or whether or not listing is warranted (second petition).

Five Year Review

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B), to determine, on the basis of such a review, whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Idaho springsnail.

Public Information Solicited

We are requesting information on the Idaho springsnail for both the 12-month finding and the 5-year review, as we are conducting these reviews simultaneously. We are also requesting information on the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail.

When we make a finding that substantial information exists to indicate that listing or delisting a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting any additional information, comments, or suggestions on the Idaho springsnail, Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail from the public, State and Federal agencies, tribes, the scientific community, industry or environmental entities, or any other interested parties. Information sought includes any data regarding interactions with other populations, historical and current distribution, biology and ecology, ongoing conservation measures for the species or its habitat, and threats to the species or its habitat. We also request information regarding the adequacy of existing regulatory mechanisms.

The 5-year review considers all new information available at the time of the review. This review will consider the best scientific and commercial data regarding the Idaho springsnail that has become available since the current listing determination or most recent status review, such as:

(1) Species biology, including but not limited to population trends, distribution, abundance, demographics,

genetics, and taxonomy, specifically regarding any key differences between the four subspecies;

(2) Habitat conditions, including but not limited to amount, distribution, and suitability;

(3) Conservation measures that have been implemented that benefit the species;

(4) Threat status and trends; and

(5) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

If you wish to comment on either of the 12-month findings or 5-year review, you may submit your comments and materials to the Field Supervisor, Snake River Fish and Wildlife Office (see **ADDRESSES** section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, 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 above address.

References Cited

A complete list of all references cited in this finding is available, upon request, from the Snake River Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is Steve Lysne (see **ADDRESSES** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 7, 2005.

Marshall P. Jones, Jr.,

Deputy Director, Fish and Wildlife Service.
[FR Doc. 05–7640 Filed 4–19–05; 8:45 am]

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