

(*Dermochelys coriacea*) while administering the State stranding program, conducting presence and absence studies, and managing the population. The proposed activities would occur in the State of Alabama. Injured or sick sea turtles would be transported to facilities in Florida, Mississippi, or Louisiana.

Applicant: Curtis S. Garriock, Pittsboro, North Carolina, TE083020-0.

The applicant requests authorization to take (capture and release) Saint Francis' Satyr (*Neonympha mitchellii francisci*) while conducting presence and absence studies and population inventories. The activities would take place at Fort Bragg Army Base, Cumberland and Hoke Counties, North Carolina.

Applicant: Erin Kathleen Garrison, Tennessee Cooperative Fishery Unit, Cookeville, Tennessee, TE083662-0.

The applicant requests authorization to take (capture, tissue samples, sacrifice one, and release) the bluemark darter (*Etheostoma (Doration) sp.*) while investigating genetic flow between seemingly isolated populations of the species and determining the amount of genetic variation within populations. The proposed activities would occur on Cane Creek (Van Buren County, Tennessee), the Caney Fork (White County, Tennessee), and Collins River (Grundy and Warren County, Tennessee). These rivers drain into Great Fall Reservoir (White County, Tennessee).

Applicant: Dr. Gary O. Graening, The Nature Conservancy, Little Rock, Arkansas, TE083697-0.

The applicant requests authorization to take (use diving lights underwater and collect one voucher specimen from each new location) the *Amblyopsis rosae*, *Cambarus aculabrum*, and *Cambarus zophonastes* while updating their status and distribution and while performing ongoing monitoring of the populations and their habitat. The activities would take place in Benton, Carroll, Washington, Madison, Boone, Stone, Newton, Marion, Baxter, Sharp, Randolph, Izard, Searcy, Independence, Crawford, and Lawrence Counties, Arkansas; Delaware, Ottawa, Adair, and Cherokee Counties, Oklahoma.

Applicant: Fish and Wildlife Associates, Inc., Pamela M. Boaze, Whittier, North Carolina, TE083941-0.

The applicant requests authorization to take (capture, identify, and release) the following species: Blue shiner (*Cyprinella caerulea*), Etowah darter (*Etheostoma etowahae*), Cherokee darter (*Etheostoma scotti*), Amber darter (*Percina antesella*), goldline darter

(*Percina aurolineata*), Conasauga logperch (*Percina jenkinsi*), snail darter (*Percina tanasi*), flatwoods salamander (*Ambystoma cingulatum*), fat threeridge (*Amblyma neislerii*), purple bankclimber (*Elliptioideus sloatianus*), upland combshell (*Epioblasma metastrata*), southern acornshell (*Epioblasma othcaloogensis*), southern combshell (*Epioblasma penita*), fine-lined pocketbook (*Lampsilis altilis*), Orange-nacre mucket (*Lampsilis perovalis*), shinyrayed pocketbook (*Lampsilis subangulata*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), oval pigtoe (*Pleurobema pyriforme*), and triangular kidneyshell (*Ptychobranchus greenii*) while conducting presence and absence studies and population monitoring. The proposed activities would occur throughout the State of Georgia.

Applicant: USDA Forest Service, Southern Research Station, Charles Andrew Dolloff, Blacksburg, Virginia, TE084010-0.

The applicant requests authorization to take (capture, identify, examine, measure, release) the Carolina heelsplitter (*Lasmigona decorata*). The purpose of the take would be to describe habitat conditions and mussel distribution, density, and population size structure within a 16 km reach of Mountain Creek using quantitative, statistically valid and repeatable methods. Specifically, the proposed activities would take place at the confluence of Mountain Creek and Turkey Creek, south of State Road 62 crossing; Edgefield and Greenwood Counties, South Carolina.

Applicant: North Carolina State University, Department of Botany, Qiu-yun Xiang, Raleigh, North Carolina, TE084018-0.

The applicant request authorization to possess (collect leaf material and seeds) from the (*Echinacea laevigata*) smooth coneflower for while conducting genetic diversity analyses and out crossing rates. The proposed activities would occur in the States of Georgia, North Carolina, South Carolina, and Virginia.

Applicant: URS Corporation, James R. Orr, Franklin, Tennessee, TE084054-0.

The applicant request authorization to take (capture, identify, release) the

Anthony's river snail (*Athernia anthonyi*) while conducting dredging and presence or absence surveys. The proposed activities would occur in Jackson County, Alabama.

Dated: March 10, 2004.

Sam D. Hamilton,
Regional Director.

[FR Doc. 04-6331 Filed 3-19-04; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist the Pacific Coast Population of the Western Snowy Plover and Initiation of a 5-Year Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review for the 12-month finding and 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) from the Federal List of Threatened and Endangered Wildlife and Plants (List) pursuant to the Endangered Species Act (Act) [16 U.S.C. 1531 *et seq.*]. We find that the petition presents substantial information that delisting the Pacific coast population of the western snowy plover may be warranted, and are initiating a status review. We are requesting submission of any new information on the Pacific coast population of the western snowy plover since its original listing as a threatened species in 1993. Following this status review, we will issue a 12-month finding on the petition to delist. Because a status review is also required for the 5-year review of listed species under section 4(c)(2)(A) of the Act, we are electing to prepare these reviews simultaneously. At the conclusion of these simultaneous reviews, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act, and make the requisite finding under section 4(c)(2)(B) of the Act based on the results of the 5-year review.

DATES: The finding announced in this document was made on February 20, 2004. To be considered in the 12-month finding on this petition or the 5-year review, comments and information

should be submitted to us by May 21, 2004.

ADDRESSES: Comments, material, information, or questions concerning this petition and finding should be sent to Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, California 95825-1846. The petition, finding, and supporting information are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Glen Tarr or Arnold Roessler, Fish and Wildlife Biologists, at the above Sacramento address (telephone: (916) 414-6600).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (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 the petitioned action may be warranted. To the maximum extent practicable, we must make the finding within 90 days of receiving 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 a 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.

On March 5, 1993, we listed the Pacific Coast population of the western snowy plover (58 FR 12864). Critical habitat for the species was designated

on December 7, 1999 (64 FR 68508). On June 19, 2003, the U.S. District Court for the District of Oregon found that our critical habitat designation was not consistent with the requirements of section 4(b)(2) of the Act, and remanded the designation to us; the Court partially vacated the 1999 critical habitat designation.

Biology and Distribution

Snowy plovers are small shorebirds, about 16 centimeters (6 inches) long, with pale brown upperparts, buff colored bellies, and darker patches on their shoulders and heads. Their dark gray to black legs are a useful distinguishing feature when comparing to other plover species (Page *et al.* 1995a). Two subspecies of snowy plover nest in North America: the western snowy plover (WSP) and the Cuban snowy plover.

The nesting range of the first subspecies, the western snowy plover (*Charadrius alexandrinus nivosus*), includes sites in Baja California, California, Oregon, Washington, Nevada, Utah, Arizona, Colorado, New Mexico, Kansas, Oklahoma, Texas, and central and northeastern Mexico, as well as irregularly visited sites in Saskatchewan, Wyoming, and Montana (Page *et al.* 1995a). In 1993, we determined that the coastal population of the western snowy plover (Pacific Coast WSP) was a separate distinct population segment from the interior populations and defined the Pacific Coast WSP as only those western snowy plovers "that nest adjacent to or near tidal waters" of the Pacific Ocean (58 FR 12864).

The second North American subspecies, the Cuban snowy plover (*Charadrius alexandrinus tenuirostris*), nests generally east of Louisiana at various locations along the Gulf of Mexico, including Florida, the Bahamas, the Yucatan Peninsula, and Puerto Rico. The Cuban snowy plover is distinguished primarily by paler plumage, and some accounts consider it to be simply a paler version of the western snowy plover rather than a separate subspecies (Page *et al.* 1995a).

With the exception of individuals in the Pacific Coast WSP, and in southern California, Arizona, New Mexico, and Texas, western snowy plovers in the United States migrate between winter and summer ranges (Page *et al.* 1995a, 1995b). Breeding takes place only at the summer location. Some Pacific Coast WSP individuals migrate to other Pacific coast sites for breeding, while others remain resident year round. Plovers hatched at interior sites west of the Rocky Mountains migrate to

wintering locations on the Pacific coast and in the Gulf of California, where they may mix with birds from the Pacific Coast WSP (Page *et al.* 1995a, 1995b). However, evidence from several banding studies indicates the two populations separate out again to nest (Gary Page, *et al.*, Point Reyes Bird Observatory, *in litt.* 2002.).

The timing of the nesting season varies with location, but in coastal California it tends to run from March through September (Page *et al.* 1995a). Breeding locations tend to be sandy areas close to water, including beaches, salt pans, and alkaline playas. Clutches, which most commonly consist of three eggs, are laid in shallow scrapes or depressions in the sand. Snowy plovers generally form monogamous pair bonds and share incubation duties, but western snowy plover females typically desert the brood shortly after hatching, and may renest with a new male if time remains in the season to do so. Males typically care for the young until they fledge, which takes about a month, and may then also renest with a new partner if sufficient time remains in the season (Stenzel *et al.* 1994). This results in a serially polygamous breeding system in which males may double clutch and females triple clutch during a single season (Page *et al.* 1995a).

Review of Petition

We received a petition dated July 29, 2002, from the Surf-Ocean Beach Commission of Lompoc, California, to delist the Pacific Coast WSP pursuant to the Act. We also received a similar petition dated May 30, 2003, from the City of Morro Bay, California. As explained in our 1996 Petition Management Guidance (Service 1996), subsequent petitions are treated separately only when they are greater in scope or broaden the area of review of the first petition. The City of Morro Bay petition repeats the same information provided in the Surf-Ocean Beach Commission petition and will therefore be treated as a comment on the first petition received.

The petition states that the original decision to list the Pacific Coast WSP was in error on the grounds that it fails to meet any of the three elements (discreteness, significance, and conservation status) of our policy regarding the recognition of distinct vertebrate population segments (DPS policy) (61 FR 4722). The Act defines listable "species" to include taxonomic species, subspecies, and "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" (16 U.S.C. 1532(16)). Because the Pacific Coast

WSP is not a taxonomic species or subspecies, it must be a distinct vertebrate population segment (DPS) in order to qualify for listing. Although we had not yet published our DPS policy when we listed the Pacific Coast WSP, the policy states that “[a]ny DPS of a vertebrate taxon that was listed prior to implementation of this policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing status * * *” (61 FR 4722 at 4725). The petition’s application of the DPS policy to the Pacific Coast WSP is addressed below.

To qualify for listing under the DPS policy, a population must demonstrate both discreteness and significance in relation to the remainder of the species (61 FR 4722). The petition states that the Pacific Coast WSP does not meet the discreteness criterion. The relevant condition for satisfying this criterion requires the population to be “markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation” (61 FR 4725).

The petition cites an unpublished master’s thesis that found no significant genetic differences between the Pacific Coast WSP and other populations of snowy plover (Gorman 2000). This study was designed to provide a broad overview of genetic differences in western and Cuban snowy plovers across the western hemisphere, rather than to differentiate between the Pacific Coast WSP and its inland neighbor populations (S. Haig, U.S. Geological Survey, *in litt.* 2002). For example, the study only sampled from two highly separated sites within the coastal population (southern Oregon and southern California), and two highly separated sites outside the coastal population west of the Rockies (Abert Lake in eastern Oregon and the Great Salt Lake in Utah). It also compared segments of mitochondrial DNA that varied little across the entire range of subjects studied.

In the final listing rule (58 FR 12864), we determined that the Pacific Coast WSP is isolated based on numerous banding studies and surveys conducted on coastal and interior birds (Spear 1979; Stenzel and Peaslee 1979; Henderson and Page 1979; Widrig 1980; Page and Stenzel 1981; Page *et al.* 1983; Wilson-Jacobs and Meslow 1984; Warriner *et al.* 1986; Herman *et al.* 1988; Page and Bruce 1989; Stern *et al.* 1990a, 1990b, 1991a, 1991b; Page *et al.* 1991). This determination has been supported by additional banding studies and

surveys (Oregon Department of Fish and Wildlife (ODFW) 1994; Palacios and Alfaro 1994; Paton 1994; Persons 1994, 1995; Stenzel *et al.* 1994; Page *et al.* 1995b; Gary Page, *et al.*, Point Reyes Bird Observatory, *in litt.* 2002; Steve Henry, Service, *in litt.* 2003). These banding studies and surveys documented numerous examples of coastal and interior birds changing breeding sites within their respective populations (*e.g.*, Stenzel, *et al.* 1994), but only showed two definite cases of interbreeding across populations. Both of these were females that hatched or had bred in the coastal population and had then nested at inland California sites (Page *et al.*, *in litt.* 1989; 58 FR 12864; Stenzel *et al.* 1994).

However, although the banding studies and surveys on which we based our isolation determination showed only two definite instances of interbreeding, they also produced several sightings of birds that might possibly have interbred. For instance: (1) Stenzel *et al.* (1994) mentions four coastal females and four males at inland nesting sites; (2) the Service’s draft recovery plan for the species (Service 2001) mentions three coastal females and one male at interior nesting sites; and (3) a letter from G. Page, Point Reyes Bird Observatory (PRBO), (1989) refers to a male “born on the coast” and “found nesting in the interior.” According to PRBO notes, this last bird, which was also mentioned in Stern (1990a), was actually first banded on the coast in November and so may have hatched inland (L. Stenzel, pers. comm. 2003). Additionally, while the number of banded birds and survey coverage of nesting sites has been extensive, we have not closely examined the extent to which the greatest banding efforts may have coincided with the most comprehensive survey efforts. We also have not looked closely at the extent to which bands may have been overlooked or improperly documented by the surveys.

The Gorman thesis and the information in our files regarding possible interbreeding raise issues relevant to a DPS determination that we conclude should be examined more closely in a status review. During this review, we will reevaluate our DPS determination for this population in accordance with our DPS policy (61 FR 4722). The petition also presents information regarding the significance of the Pacific Coast WSP under the DPS policy, and regarding the extent to which the population may actually be threatened. We will address that information more thoroughly in the status review.

Finding

We have reviewed the petition and the supporting documents, as well as other information in our files. We find that the petition and other information in our files presents substantial information that delisting the Pacific Coast WSP may be warranted, and are initiating a status review. We will issue a 12-month finding in accordance with section 4(b)(3)(B) of the Act as to whether or not delisting is warranted.

Five-Year Review

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every five 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 Pacific Coast WSP.

Public Information Solicited

We are requesting information for both the 12-month finding and the 5-year review, as we are conducting these reviews simultaneously.

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 Pacific Coast WSP from the public, other concerned governmental agencies, Tribes, the scientific community, industry or environmental entities, or any other interested parties. Information sought includes any data regarding interbreeding 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 that has become available since the current listing determination or most recent status review, such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends;

E. 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 for either the 12-month finding or 5-year review, you may submit your comments and materials to the Field Supervisor, Sacramento 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 us 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 Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is Glen Tarr (see **ADDRESSES** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973 (16 U.S.C. 131 *et seq.*).

Dated: February 20, 2004.

Marshall Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 04-6082 Filed 3-19-04; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with marine mammals.

DATES: Written data, comments or requests must be received by April 21, 2004.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Randall W. Davis, Texas A & M University, Galveston, TX, PRT-078744

The applicant requests a permit to take by harassment up to 200 wild northern sea otters (*Enhydra lutris lutris*) by positioning a skiff at the location of otter's foraging dives in order to measure foraging depth. The applicant also requests authorization to

recover and necropsy dead sea otter carcasses collected opportunistically during other research activities. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Boon And Crockett Club, Missoula, MT, PRT-072586

The applicant requests a permit to import one Atlantic walrus (*Odobenus rosmarus rosmarus*) trophy harvested from the wild in Canada for the purposes of public display.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: March 15, 2004.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 04-6255 Filed 3-19-04; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone (703) 358-2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Marine Mammals