Dated: November 9, 2005.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 05–22694 Filed 11–14–05; 8:45 am]

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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 List the Uinta Mountainsnail as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Uinta mountainsnail (*Oreohelix eurekensis uinta*) as endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing *O. e. uinta* may be warranted. This finding is based on our determination that there is insufficient evidence to indicate that *O. e. uinta* is a valid subspecies, and, therefore, cannot be considered a listable entity pursuant to section 3(15) of the Act. Therefore, we will not initiate a status review in response to this petition. However, the public may submit to us new information concerning the status of or threats to *O. e. uinta* at any time.

DATES: The finding announced in this document was made on November 7, 2005.

ADDRESSES: The complete file for this finding is available for public inspection, by appointment, during normal business hours at the Utah Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Submit new information, materials, comments, or questions concerning the status of or threats to this taxon to us at the above address.

FOR FURTHER INFORMATION CONTACT: Henry Maddux, Field Supervisor, Utah Fish and Wildlife Office (see **ADDRESSES**) (telephone 801–975–3330; facsimile 801–975–3331).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (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 scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition and other information that is readily available to us (*e.g.*, in our files). To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated under our internal candidate assessment process.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). We also reviewed additional, readily available information pertinent to *O. e. uinta* to clarify certain points raised in the petition. We did not conduct additional research or subject the petition to rigorous critical review. Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold.

On August 29, 2001, we received a formal petition from the Utah Environmental Congress (UEC) to list *O. e. uinta* as an endangered species pursuant to section 4 of the Act. Although *O. e. uinta* was once thought extinct, a small number had been found in the Ashley National Forest, Uinta County, Utah, in 1998. The August 21, 2001, petition was based largely on this discovery. The petition cited threats from grazing, prescribed fire, logging, and sedimentation from U.S. Forest Service (USFS) road-building operations. The petition also requested that critical habitat be designated simultaneously with the listing of *O. e. uinta* as endangered.

In letters dated September 17 and October 3, 2001, we denied emergency listing because of measures taken by the Ashley National Forest to protect the population. On July 13, 2004, we received a 60-day notice of intent to sue from UEC and other groups. On January 25, 2005, we received a complaint regarding our failure to make the 90-day and 12-month findings. In light of these legal actions, we discussed various options with the plaintiffs and tentatively agreed to submit a completed 90-day finding to the **Federal Register** by November 7, 2005.

Species Information

Oreohelix eurekensis uinta is in the genus *Oreohelix*, commonly called the ''Mountain Snail.'' This genus of land snails is endemic to western North America, with distributions ranging from southwestern Canada, including southern Saskatchewan and British Columbia, to western Chihuahua in northern Mexico (Pilsbry 1939). In terms of the biogeographical distribution of land snails, North America is generally split into Eastern and Western American ''Divisions'' (Pilsbry 1939), while each division is further divided into land snail provinces (Frest 2002). The biogeographical distribution of *Oreohelix* includes the Rocky Mountain, Washingtonian, and Southwestern Provinces of the Western Division of North America (Frest 2002).

Factors determining habitat preferences of land snails include cover, effective moisture availability, and geologic history (Frest 2002). Most land snail species are calciphiles, meaning they are usually restricted to limestone, dolomite, or other substrates containing high levels of the element calcium (Frest 2002). Moist soil conditions are favored and soil pH may be a factor in determining suitable habitat (Frest 2002). Desiccation is the primary factor in mortality (Frest 2002). Moist forests, slope bases, north slopes, springs and seeps, edges of floodplains, and rock talus (a sloping mass of loose rock debris at the base of a cliff) are areas of land snail concentration (Frest 2002). Areas with vegetation or other forms of cover (*e.g.*, rock overhangs and caves) that provide shade also are usually preferred by land snails; abundant downed woody debris is also important (Frest 2002).

Western land snails are typically herbivores, but some may consume animal matter. Land snails contribute substantially to nutrient recycling, breaking down plant detritus and animal waste (Frest 2002). They are preyed upon extensively by small mammals, reptiles, amphibians, birds, and insects (Frest 2002).

Land snails are ''exceptional indicators'' of ecosystem health (Frest 2002). They are present in many environments, have specialized habitat needs, and are essentially sessile

(permanently attached or established; not free to move about). Land snails respond quickly and are vulnerable to disturbances or anthropogenic habitat change (Frest 2002).

Oreohelix species and subspecies vary in size, height of shell spire, degree of carination (*i.e.*, presence and size of a keel or ridge around the outside whorl of the shell), width of umbilicus (*i.e.*, the ventral opening formed in the center of the whorls), and color (Pilsbry 1939). The level of endemism (*i.e.*, the degree to which an organism is restricted to a certain area) among *Oreohelix* species and subspecies is notable and is believed to be specifically associated with unique geology, soils, and vegetation (Frest 2002). Areas of high endemism include the Hells Canyon area of Oregon, Idaho, and Washington, the lower Salmon River drainage of Idaho, the Wasatch Range in Utah, and northwestern portions of Montana (Frest 2002). Isolated geographic localities, such as ''island'' mountain ranges, appear to support endemic species of *Oreohelix* (Frest 2002).

Distribution

The genus *Oreohelix* contains 32 species and 54 subspecies, including *Orehelix eurekensis*—the species most closely associated with *O. e. uinta* (Pilsbry 1933). *O. eurekensis* has been documented in six localities representing four widely separated populations scattered across northern Utah (Oliver and Bosworth 1999).

O. e. uinta has been positively identified in at least two localities: (1) The Ashley National Forest (NF), Uinta County, Utah (Oliver and Boswerth 2000)—the site identified in the petition; and (2) a more recently discovered site identified as Big Spring site, on the Sheep Creek geological loop on the west side of Flaming Gorge Reservoir, approximately 80 kilometers (50 miles) away from the first site (Bill Stroh, USFS biologist, pers. comm.). No long-term studies have been completed to indicate specific population trends and it is unknown if the populations are increasing or decreasing (Oliver and Bosworth 1999). There is speculation that other populations of *O. e. uinta* also may exist in the east Tavaputs Plateau region of Utah (George Oliver, Utah Dept. of Wildlife Resources, pers. comm.).

The Ashley NF site is an open, 45-degree, south-southwest-facing slope of broken limestone and loam. The sparse plant cover of the small area inhabited by *Oreohelix eurekensis uinta* is predominantly chokecherry (*Prunus virgniana*), rose (*Rosa cf. woodsii*), serviceberry (*Amelanchier cf. alnifolia*), pine (*Pinus sp.*), Douglas fir (*Pseudotsuga menzeisii*), thistle (*Cirsium sp*), and wax currant (*Ribes cereum*), although nine other species of forbs and two other species of shrubs also are present. Quaking aspen (*Populus tremuloides*) and sagebrush (*Artemisia sp.*) are prominent plants of the surrounding parts of the same slope (Oliver and Bosworth 2000). Eighty-four dead shells and three live specimens have been collected at the site and compared to paratype (specimens of the type series other than the holotype) specimen collections to verify their taxon (Oliver and Bosworth 2000).

Although we have global positioning system (GPS) coordinates for the Big Spring site on the Sheep Creek geological loop, we have little descriptive information on the localities. Eleven small, dead snails were found approximately 3.8 centimeters (1.5 inches) under the surface in one locality, and, in another locality, others were found in dry soil approximately 0.65 centimeter (0.25 inch) under the surface, under a gooseberry. Shells were collected by the USFS on September 25, 2003, and later identified by George Oliver (Utah Department of Wildlife Resources (UDWR)).

Taxonomy

Oreohelix eurekensis uinta is in the class Gastropoda, family Oreohelicidae, and genus *Oreohelix*. *Oreohelix eurekensis* was originally described as *Oreohelix hemphilli eurekensis* by Henderson and Daniels (1916), but was subsequently elevated to full specific status as *Oreohelix eurekensis* (Henderson 1924). *O. e. eurekensis* was recognized as a subspecies by Henderson and Daniels (1916), and *O. e. uinta* was proposed as a subspecies by Brooks (1939). Brooks proposed subspecific status for *O. e. uinta* based primarily on its relatively wider umbilicus, an exceedingly variable feature in *Oreohelix* taxa (Roscoe and Grosscup 1964). Roscoe and Grosscup (1964) suggested that younger specimens of *O. eurekensis* could not be distinguished from *O. e. uinta* and that *O. e. uinta* may simply be a subadult of *O. eurkensis*. The senior author had ''grave doubts as to the validity'' of *O. e. uinta* even as a subspecies (Roscoe and Grosscup 1964).

Experienced staff of the UDWR reviewed multiple references in an effort to understand the taxonomic history of *Oreohelix eurekensis uinta*. Of the 15 references they identified from 1936 through 2000, only 6 discussed taxonomy and 4 of those only minimally (James F. Karpowitz, UDWR, in litt., August 18, 2005). With the types of information that would be necessary to reconcile the issue of taxonomy (*e.g.*, morphology of soft anatomy, molecular genetics, and breeding experiments) lacking, authors either deferred to Brooks (1939), who justified the subspecies status based on slight morphological distinction and geographic disjunction, or explicitly questioned the validity of the taxon (Karpowitz in litt. 2005). Brooks (1939) stated ''this race is so similar to [typical *Oreohelix eureka*] found * * * about 125 miles * * * from [the new locality] * * * that it would hardly be thought distinguishable if it were not from a different mountain system.''

Karpowitz (in litt. 2005) also quoted Bickel (unpublished report, 1977) as stating that the taxonomic status of both *Orehelix eurekensis* and *O. e. uinta* was ''undetermined, probably a synonym or subspecies of *Oreohelix yavapai*.'' It is clear that, based on the sum total of information reviewed, there has never been a systematic analysis of *O. e. uinta* or its relatives and there is no persuasive or strongly defensible scientific basis for any of the possible taxonomic arrangements (*i.e.*, subspecies or species) that have been proposed (Karpowitz in litt. 2005). Thus, we conclude that there is insufficient scientific evidence to indicate that *O. e. uinta* is a valid subspecies. Therefore, we further conclude that the Uinta mountainsnail cannot at this time be considered a listable entity pursuant to section 3(15) of the Act.

Additional Considerations

The petition presented information pursuant to the five factors listed in section 4 of the Act in an effort to identify threats that may be leading to the decline of the Uinta mountainsnail. These factors are pertinent only in cases where the organism being proposed for listing is a listable entity as defined by section 3(15) of the Act. Nonetheless, we reviewed the information included in the petition, and other information readily available to us, in an effort to identify possible voluntary management actions that may assist with Uinta mountainsnail conservation. We reiterate that this discussion of threats is not a basis for our finding.

The petition suggests that prescribed fire may have extirpated the species, although Oliver and Bosworth (2000) clearly stated that previous attempts to locate *O. e. uinta* by Clarke and Hovingh (1994) were in the wrong location and that their reference to possible extirpation from the burn was unfounded. Although prescribed fire

may be detrimental to mountainsnails, USFS has confirmed that there are currently no prescribed burns scheduled for the type location on the Ashley NF (Bill Stroh, USFS biologist, pers. comm.). The USFS also has confirmed that there are no timber harvests scheduled or anticipated in the site location, nor are there any planned road construction projects (Bill Stroh, USFS biologist, pers. comm.). The site has been fenced and is being monitored by USFS personnel.

At this time, the petitioned population of mountainsnails seems most at risk from scientific collection, an issue not addressed in the petition but the subject of ongoing coordination between USFS, UDWR, and the Service. The rarity of the species also is in question in that at least two populations of *O. e.s uinta* have been positively identified, with two other suspected populations from the east Tavaputs Plateau (George Oliver, UDWR, pers. comm.).

Finding

We have reviewed the petition, literature cited in the petition, and other pertinent information readily available to us. Based on this review, we find the petition does not present substantial information indicating that listing the Uinta mountainsnail may be warranted. This finding is based on the lack of conclusive scientific evidence to indicate that *O. e. uinta* is a valid subspecies. Therefore, we have concluded that the Uinta mountainsnail cannot be considered a listable entity pursuant to section 3(15) of the Act. We will not be commencing a status review in response to this petition. However, we will continue to monitor the taxon's population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the Uinta mountainsnail across its range. We encourage interested parties to continue to gather data that will assist with these conservation efforts. New information should be submitted to the Field Supervisor, Utah Field Office (see **ADDRESSES**).

References Cited

A complete list of all references cited herein is available, upon request, from the Utah Field Office (see **ADDRESSES**).

Author

The primary author of this notice is Marianne Crawford, Utah Field Office, U.S. Fish and Wildlife Service, (see **ADDRESSES**).

Authority

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

Dated: November 7, 2005.

Marshall Jones,

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

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