

biology, distribution, and status of the Cowhead Lake tui chub in northeastern California.

**DATES:** Comments from all interested parties must be received by August 3, 1998. All comments received by the closing date will be considered in the final decision on this proposal.

**ADDRESSES:** Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ann Chrisney, at the address listed above (telephone 916/979-2725, facsimile 916/979-2723).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Cowhead Lake tui chub is a fish that is found only in Cowhead Slough and connected ditches within the bed of Cowhead Lake in extreme northeastern Modoc County, California. Prior to being drained for agricultural purposes, Cowhead Lake is thought to have contained the majority of the Cowhead Lake tui chub population. The entire population appears to occur in a very confined area of 5.4 kilometers (3.4 miles) of Cowhead Slough and connected drainage within the bed of Cowhead Lake. There are no additional populations. Protection of the habitat within this limited range is required to conserve the Cowhead Lake tui chub. This subspecies is threatened throughout its range by a variety of impacts, including loss of habitat from agricultural activities, the risk of disease and contamination, loss of genetic variability and by naturally occurring random events.

On March 30, 1998, the Service published in the **Federal Register** a rule proposing endangered status for the Cowhead Lake tui chub (63 FR 15152). The original comment period closed May 29, 1998.

There have been requests from five parties, including private organizations and private citizens, to reopen the comment period for this listing proposal. The Service is seeking additional information concerning:

- (1) The size, number, or distribution of populations of this subspecies; and
- (2) Other biological, commercial, or other relevant data on any threat (or lack thereof) to this subspecies.

Written comments may be submitted until August 3, 1998 to the Service office in the **ADDRESSES** section.

##### Author

The primary author of this notice is Ann Chrisney (see **ADDRESSES** section).

##### Authority

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

Dated: June 9, 1998.

##### Don Weathers,

Acting Regional Director, Region 1.

[FR Doc. 98-15929 Filed 6-16-98; 8:45 am]

BILLING CODE 4310-55-P

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 227

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 17

##### Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Spruce Creek Snail of Florida as Threatened and Designate Critical Habitat

**AGENCY:** Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** The Fish and Wildlife Service and National Marine Fisheries Service (Services) announce a 90-day finding on a petition to list the Spruce Creek snail (*Melongena sprucecreekensis*) under the Endangered Species Act, as amended. The Services find the petition did not present substantial scientific or commercial information indicating that listing this species may be warranted.

**DATES:** The finding announced in this document was made on May 11, 1998, and concurred with by NFMS on May 28, 1998.

**ADDRESSES:** Questions, comments, data, or information concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216; Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive, St. Petersburg,

Florida 33702-2432, or Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, Maryland 20910. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above addresses.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael M. Bentzien, Assistant Field Supervisor, Jacksonville, Florida; telephone 904/232-2580, ext. 106; facsimile 904/232-2404 or Colleen Coogan, Fishery Biologist, St. Petersburg, Florida, telephone 813/570-5312; facsimile 813/570-5517 (see **ADDRESSES** section).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires the Services to make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Services at the time the finding is made. To the maximum extent practicable, this finding shall be made within 90 days following receipt of the petition, and promptly published in the **Federal Register**. If the finding is that substantial information was presented, the Services are also required to promptly commence a review of the status of the species involved, if one has not already been initiated under the Service's internal candidate assessment process.

On December 12, 1994, the Fish and Wildlife Service received a petition dated December 5, 1994, from R. P. Haviland, corresponding secretary of the Environmental Council of Volusia and Flagler counties, Florida. The petition requested the Service to list the Spruce Creek snail, *Melongena sprucecreekensis*, as a threatened species and designate its critical habitat. The petition stated that this recently described snail is restricted to Spruce Creek and associated waters in Volusia County, Florida, and is threatened by ongoing and potential development and natural factors.

The Fish and Wildlife Service received a previous petition in 1985 to list the species, then known as the Spruce Creek Kings Crown snail, as endangered. The Service found that petitioned action was not warranted due to the species' uncertain taxonomic

status, and published its finding on July 18, 1985 (50 FR 29238). In a follow-up letter to the petitioner, Mr. John Tucker of Cocoa, Florida, the Service indicated that a scientific description of the species in a peer-reviewed journal would increase the likelihood that it could make a positive finding on any future petition to list this species. Tucker (1994) subsequently described the Spruce Creek snail as a distinct species.

A 1974 Memorandum of Understanding (MOU) between the Services sets forth jurisdictional responsibilities and listing procedures under the Act. As applied to the following petition, the MOU stipulates that the agencies shall jointly determine whether to list the petitioned species, and publish the results in a single **Federal Register** document.

Because of the joint jurisdiction of this species, the National Marine Fisheries Service agreed to process this petition according to the Fish and Wildlife Service's Listing Priority Guidance for Fiscal Years 1998 and 1999, published on May 8, 1998 (63 FR 25502). The guidance clarifies the order in which the FWS will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this petition is a Tier 2 action.

The Spruce Creek snail is a large predatory gastropod belonging to the

family Melongenidae. Its light-colored shell has two to three, brown to grey bands of varying width, and a distinct ratio of shell spines on its shoulder and anterior end (Tucker 1994). The snail occurs in brackish waters over a muddy sand substrate, where it feeds almost exclusively on oysters and often congregates in large numbers within oyster bars (congregation of oysters). The species, with an estimated population of less than 25,000 total individuals, is known only from five local areas within Spruce Creek and adjacent estuaries in Volusia County, Florida. Its prehistoric range is thought to have included neighboring Brevard County and may have extended as far south as Palm Beach County (Tucker in litt. 1985).

The petition suggests that stormwater runoff carrying fertilizers, pesticides, and silt; dredging canals and boat channels; diking and draining mangrove swamps; removing seagrasses or mangroves to install revetments; and destruction of freshwater swamps pose threats to the snail and its habitat. Sea level rises and storm surges are natural factors cited as additional potential threats. The petitioner believes siltation produced by residential development along the adjacent Rose Bay drainage is responsible for the absence of oyster beds and possibly Spruce Creek snails from that area. Tucker (in litt. 1985) found the snail to be less common within parts of the Spruce Creek drainage near upland development. The petition concludes that future development or habitat alteration could lead to the extinction of the Spruce Creek snail.

The Services have reviewed the petition, the literature cited in the petition, and information available in the Services' files, and made a 90-day finding. On the basis of the best scientific and commercial information available, the Services find the petition does not present substantial information

indicating that listing the Spruce Creek snail may be warranted. The petition does not provide data on historic distribution and abundance, population trends, and the species' full range of habitat requirements. The threats discussed in the petition are speculative and are not correlated to any known population decline. The known range of the Spruce Creek snail is within Outstanding Florida Waters designated by the Florida Environmental Regulation Commission, pursuant to Chapter 62-302 of the Florida Administrative Code. This designation imposes water quality standards that, if maintained, should be compatible with the continued existence of oysters and the petitioned species.

The petitioner's request for designation of critical habitat is not subject to the Act's petition provisions and is, therefore, not considered in this notice.

#### Reference Cited

Tucker, J.K. 1994. The crown conch (*Melongena*: Melongenidae) in Florida and Alabama with the description of *Melongena sprucecreekensis*, n. sp. Bull. Florida Mus. Nat. Hist. Biol. Sci. 36(7):181-203.

Authors: The primary author of this document is Mr. John F. Milio, FWS, Jacksonville Field Office (see **ADDRESSES** section).

#### Authority

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

Dated: May 11, 1998.

**Jamie Rappaport Clark**,  
Director, Fish and Wildlife Service.

Dated: May 28, 1998.

**Rolland A. Schmitten**,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 98-16133 Filed 6-16-98; 8:45 am]

**BILLING CODE 4310-55-P**