

memo  
2006



# United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street  
Cookeville, TN 38501

August 1, 2006

Dear Interested Party:

On July 28, 2006, the U.S. Fish and Wildlife Service (Service) published a notice in the Federal Register (enclosed) announcing our intent to conduct a 5-year review of 19 species of animals and plants, including nine species for which our office has the lead responsibility under section 4(c)(2)(A) of the Endangered Species Act of 1973, as amended (Act): the snail darter (*Percina tanasi*), yellowfin madtom (*Noturus flavipinnus*), smoky madtom (*Noturus baileyi*), duskytail darter (*Etheostoma percnurum*), royal snail (*Pyrgulopsis ogmorhapha*), birdwing pearl mussel (*Conradilla caelata*), cracking pearl mussel (*Hemistena lata*), dromedary pearl mussel (*Dromus dromas*), and Ruth's golden aster (*Pityopsis ruthii*). The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12) is appropriate.

A 5-year review is an assessment of a species' status examined in light of any new biological information available since its original listing, and will be based on the best scientific and commercial data available at the time of this review. The review will assess: (a) whether new information suggests that the species' population is increasing, declining, or stable; (b) whether previously existing threats are increasing, the same, reduced, or eliminated; (c) if there are any new threats; and (d) if new information or analysis calls into question any of the conclusions in the original listing determination as to the species' status.

The information obtained in this review will be evaluated to determine if there is an indication that a change in the listing status for any of these species is warranted, based on the five factors described in the Act:

- 1) the present or threatened destruction, modification, or curtailment of its habitat or range;
- 2) overutilization for commercial, recreational, scientific, or educational purposes;
- 3) disease or predation;
- 4) the inadequacy of existing regulatory mechanisms; or
- 5) other natural or manmade factors affecting its continued existence.

We request your assistance in this effort by providing any new information that you may have on the snail darter, yellowfin madtom, smoky madtom, duskytail darter, Ruth's golden aster, royal snail, birdwing pearlymussel, cracking pearlymussel and dromedary pearlymussel since their original listing in 1979, 1977, 1984, 1993, 1985, 1994, 1976, 1989 and 1976, respectively.

To allow us adequate time to ~~conduct this review~~, information submitted for our consideration must be received on or before September 26, 2006. However, we will continue to accept new information about any listed species ~~at any time~~. Please send your response to:

Field Supervisor  
Cookeville Field Office  
U.S. Fish and Wildlife Service  
446 Neal Street  
Cookeville, Tennessee 38501

Information regarding the snail darter, yellowfin madtom, smoky madtom, or duskytail darter may be sent electronically to [timothy\\_merritt@fws.gov](mailto:timothy_merritt@fws.gov). Information regarding the birdwing pearlymussel, cracking pearlymussel, or dromedary pearlymussel may be sent electronically to [james\\_widlak@fws.gov](mailto:james_widlak@fws.gov). Information regarding Ruth's golden aster or the royal snail may be sent electronically to [geoff\\_call@fws.gov](mailto:geoff_call@fws.gov).

If you have any questions regarding this request, contact Timothy Merritt concerning the snail darter, yellowfin madtom, smoky madtom, and duskytail darter at the above-listed email address or by telephone at 931/528-6481, ext. 211. Any questions regarding the birdwing pearlymussel, cracking pearlymussel, and dromedary pearlymussel should be addressed to James Widlak at the above-listed email address or by telephone at 931/528-6481, ext. 202. Questions concerning Ruth's golden aster and the royal snail should be addressed to Geoff Call at the above-listed email address or by telephone at 931/528-6481, ext. 213. We appreciate your interest in these threatened and endangered species.

Sincerely,



Lee A. Barclay, Ph.D.  
Field Supervisor

Enclosure

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Endangered and Threatened Wildlife and Plants; 5-Year Review of 19 Southeastern Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces 5-year reviews of the duskytail darter (*Etheostoma percnurum*), snail darter (*Percina tanasi*), smoky madtom (*Noturus baileyi*), yellowfin madtom (*Noturus flavipinnus*), Carolina heelsplitter (*Lasmigona decorata*), birdwing pearl mussel (*Conradilla caelata*), cracking pearl mussel (*Hemistena lata*), dromedary pearl mussel (*Dromus dromus*), little wing pearl mussel (*Pegias fabula*), fine-rayed pigtoe (*Fusconaia cuneolus*), shiny pigtoe (*Fusconaia cor*), ring pink (*Obovaria retusa*), royal marstonia (snail) (*Pyrgulopsis ogmorhapha*), Braun's rockcress (*Arabis perstellata*), golden sedge (*Carex lutea*), mountain golden heather (*Hudsonia montana*), Canby's dropwort (*Oxypolis canbyi*), Ruth's golden aster (*Pityopsis ruthii*), and American hart's-tongue fern (*Asplenium scolopendrium* var. *americanum*) under section 4(c)(2) of the Endangered Species Act of 1973, as amended (Act). The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12) is accurate. A 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

**DATES:** To allow us adequate time to conduct this review, information submitted for our consideration must be received on or before September 26, 2006. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** Information submitted on the duskytail darter, snail darter, smoky madtom, yellowfin madtom, birdwing pearl mussel, cracking pearl mussel, dromedary pearl mussel, royal marstonia snail, and Ruth's golden aster should be sent to the Field Supervisor, Cookeville Field Office, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, Tennessee 38501. Information submitted on the Carolina heelsplitter, fine-rayed pigtoe, shiny pigtoe, mountain golden heather, and American hart's-tongue fern should be

sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801. Information submitted on Canby's dropwort should be sent to the Field Supervisor, Charleston Field Office, U.S. Fish and Wildlife Service, 176 Croghan Spur Road, Suite 200, Charleston, South Carolina 29407. Information submitted on the little wing, ring pink, and Braun's rockcress should be sent to the Field Supervisor, Frankfort Field Office, U.S. Fish and Wildlife Service, 3761 Georgetown Road, Frankfort, Kentucky 40601. Information submitted on the golden sedge should be sent to the Field Supervisor, Raleigh Field Office, U.S. Fish and Wildlife Service, 551-F Pylon Drive, P.O. Box 33726, Raleigh, North Carolina 27636-3726. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same addresses.

**FOR FURTHER INFORMATION CONTACT:**

Timothy Merritt at the Cookeville, Tennessee, address above for the duskytail darter, snail darter, smoky madtom, and yellowfin madtom (telephone, 931/528-6481, ext. 211); Geoff Call at the Cookeville, Tennessee, address above for the royal marstonia snail and Ruth's golden aster (telephone 931/528-6481, ext. 213); Jim Widlak at the Cookeville, Tennessee, address above for the birdwing pearl mussel, cracking pearl mussel, and dromedary pearl mussel (telephone 931/528-6481, ext. 202); Bob Butler at the above Asheville, North Carolina, address for the Carolina heelsplitter, shiny pigtoe, and fine-rayed pigtoe (telephone, 828/258-3939, ext. 235); Carolyn Wells at the above Asheville, North Carolina, address for the mountain golden heather (telephone 828/258-3939, ext. 231); Robert Currie at the above Asheville, North Carolina, address for the American hart's-tongue fern (telephone, 828/258-3939, ext. 224); Ed Eudaly at the above Charleston, South Carolina, address for the Canby's dropwort (telephone 843/727-4707, ext. 220); Mike Floyd at the above Frankfort, Kentucky, address for the Braun's rockcress (telephone 502/695-0468, ext. 226); Leroy Koch at the above Frankfort, Kentucky, address for the little wing and ring pink (telephone 502/695-0468, ext. 222); and Dale Suiter at the above Raleigh, North Carolina, address for the golden sedge (telephone 910/695-3323, ext. 18).

**SUPPLEMENTARY INFORMATION:** Under the Act (16 U.S.C. 1533 *et seq.*), the Service maintains a list of endangered and

threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants) (collectively referred to as the List). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews, under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process.

The 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 following species that are currently federally listed as endangered: duskytail darter, smoky madtom, Carolina heelsplitter, birdwing pearl mussel, cracking pearl mussel, dromedary pearl mussel, little wing pearl mussel, fine-rayed pigtoe, shiny pigtoe, ring pink, royal snail, Braun's rockcress, golden sedge, Canby's dropwort, and Ruth's golden aster. This notice also announces our active review of the following species that are currently federally listed as threatened: snail darter, yellowfin madtom, mountain golden heather, and American hart's-tongue fern.

The List is found in 50 CFR 17.11 (wildlife) and 17.12 (plants) and is also available on our internet site at <http://endangered.fws.gov/wildlife.html#Species>. Amendments to the List through final rules are published in the **Federal Register**.

**What information is considered in the review?**

A 5-year review will consider the best scientific and commercial data that have become available since the current listing determination or most recent status review of each species, 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 to benefit the species;

D. Threat status and trends (see five factors under heading "How do we determine whether a species is endangered or threatened?"); and

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.

#### Definitions Related to This Notice

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

#### How do we determine whether a species is endangered or threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

#### What could happen as a result of this review?

If we find that there is new information concerning any of these 19 species indicating that a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened (downlist); (b) reclassify the species from threatened to endangered (uplist); or (c) delist the species. If we determine that a change in classification is not warranted, then the species will remain on the List under its current status.

#### Public Solicitation of New Information

We request any new information concerning the status of any of these 19 species. See "What information is considered in the review?" heading for specific criteria. Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the supporting record, which we will honor to the extent allowable by law. There also may be circumstances in which we may withhold from the supporting record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address pursuant to the Freedom of Information Act. We will not consider anonymous comments, however. 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.

#### Authority

This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: June 12, 2006.

**Cynthia K. Dohner,**

*Acting Regional Director, Southeast Region.*

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**BILLING CODE 4310-55-P**

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

#### Notice of Availability of a Final Environmental Impact Statement/ Environmental Impact Report on the Bair Island Restoration and Management Plan, Don Edwards San Francisco Bay National Wildlife Refuge and the Bair Island State Ecological Reserve, San Mateo County, CA

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** This notice advises the public of the availability of the Final Environmental Impact Statement/

Environmental Impact Report (Final EIS/EIR) for the Bair Island Restoration and Management Plan. The Record of Decision will be signed no sooner than 30 days after this notice.

The Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG) plan to restore to tidal action 1,400 acres of former salt ponds on Bair Island, a unit of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) and the Bair Island State Ecological Reserve in South San Francisco Bay. The restoration would involve breaching existing former commercial salt pond levees, adding flow restricters to Corkscrew Slough, and adding wildlife-oriented public use facilities. It could also include rerouting Smith Slough to its former slough bed and raising the bottom elevation of Inner Bair Island with dredge and/or fill material or adding water control structures to Inner Bair Island.

**DATES:** The Environmental Protection Agency (EPA) notice officially starts the 30-day waiting period for these documents. It is the goal of the Service to have our notice published on the same date as the EPA notice. However, if that does not occur, the date of the EPA notice will determine the closing date for the Final EIS/EIR. The 30-day waiting period will end on August 28, 2006. Written comments should be received on or before this date.

**ADDRESSES:** The Final EIS/EIR can be viewed on the South Bay Salt Pond Restoration Project Web site at <http://www.southbayrestoration.org/Bair-EIR-EIS.html>. Copies of the Final EIS/EIR are also available for review at the following government offices and libraries:

**Government Offices**—Don Edwards San Francisco Bay National Wildlife Refuge at the headquarters, #1 Marshlands Road, Fremont, California 94536, (510) 792-0222; Don Edwards San Francisco Bay NWR Environmental Education Center, 1751 Grand Boulevard, Alviso, California 95002, (408) 262-5513; California Department of Fish and Game, 7329 Silverado Trail, Napa, CA 94558, (707) 944-5500.

**Libraries**—Redwood City Library 1044 Middlefield Road, Redwood City, California 94063, (650) 780-1077; San Carlos Library 610 Elm Street, San Carlos, California 94070, (650) 591-0341.

**FOR FURTHER INFORMATION CONTACT:** Clyde Morris, Refuge Manager, Don Edwards San Francisco Bay NWR, P.O. Box 524, Newark, California 94560, (510) 792-0222.

**SUPPLEMENTARY INFORMATION:**