

deemed competitive pursuant to the competitive market test established under 49 CFR 69.803; (B) any study area served by a rate-of-return incumbent LEC provided that study area is not included on the list of competitive study areas pursuant to the competitive market test established under 47 CFR 61.50; or (C) any census block defined as rural by the Census Bureau if being requested solely to serve residential customers. A DS1 loop is a digital local loop having a total digital signal speed of 1.544 megabytes per second. DS1 loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services, including T1 services.

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(5) *DS3 loops.* (i) Subject to the cap described in paragraph (a)(5)(ii) of this section, an incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a wire center with at least 38,000 business lines and at least four fiber-based collocators. Once a wire center exceeds the business line and fiber-based collocator thresholds, no future DS3 loop unbundling will be required in that wire center. In addition, a DS3 loop only is available to a building located in one of the following: (A) Any county or portion of a county served by a price cap incumbent LEC that is not included on the list of counties that have been deemed competitive pursuant to the competitive market test established under 49 CFR 69.803; or (B) any study area served by a rate-of-return incumbent LEC provided that study area is not included on the list of competitive study areas pursuant to the competitive market test established under 47 CFR 61.50. A DS3 loop is a digital local loop having a total digital signal speed of 44.736 megabytes per second.

* * * * *

(b) *Subloops.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to subloops on an unbundled basis in accordance with section 251(c)(3) of the Act and this part and as set forth in paragraph (b) of this section, provided that the underlying loop is available as set forth in paragraph (a) of this section.

* * * * *

(d) * * *

(2) * * *

(iv) *Dark fiber transport.* Dark fiber transport consists of unactivated optical interoffice transmission facilities.

Incumbent LECs shall unbundle dark fiber transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, where both wire centers defining the route are either Tier 1, Tier 2, or a Tier 3 wire center identified on the list of wire centers that has been found to be within a half mile of alternative fiber pursuant to the Report and Order on Remand and Memorandum Opinion and Order in WC Docket No. 18–14, FCC 19–66 (released July 12, 2019). An incumbent LEC must unbundle dark fiber transport if a wire center on either end of a requested route is a Tier 3 wire center that is not on the published list of wire centers.

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[FR Doc. 2019–27607 Filed 1–3–20; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2019–0055;
FXES11130900000C6–123–FF09E30000]

RIN 1018–BD49

Endangered and Threatened Wildlife and Plants; Removing the Kanab Ambersnail From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the Kanab ambersnail (*Oxyloma haydeni kanabensis*) from the Federal List of Endangered and Threatened Wildlife. This determination is based on a thorough review of the best available scientific information. Our review indicates that Kanab ambersnail is not a valid subspecies and therefore cannot be listed as an endangered entity under the Act. We are seeking information and comments from the public regarding this proposed rule.

DATES: We will accept comments received or postmarked on or before March 6, 2020. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by February 20, 2020.

ADDRESSES: *Comment submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS–R6–ES–2019–0055, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment Now!” If your comments will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred formation is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2019–0055, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Information Requested**, below, for more information).

Document availability: This proposed rule and supporting documents, including a copy of the recovery plan and the 5-year review referenced throughout this document, are available on <http://www.regulations.gov> at Docket No. FWS–R6–ES–2019–0055. In addition, the supporting file for this proposed rule will be available for public inspection, by appointment, during normal business hours, at the Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119; telephone 801–975–3330. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Larry Crist, Field Supervisor, telephone 801–975–3330, ext. 61912. Direct all questions or requests for additional information to: KANAB AMBERSNAIL QUESTIONS, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119. Persons who use a TDD may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:**Information Requested***Public Comments*

We want any final rule resulting from this proposal to be as accurate as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, and other interested parties concerning this proposed rule. Comments should be as specific as possible. We particularly seek comments concerning:

(1) Reasons why we should or should not remove the Kanab ambersnail from the List of Endangered and Threatened Wildlife (“delist” the Kanab ambersnail);

(2) Additional taxonomic or other relevant data concerning the Kanab ambersnail; and

(3) Additional information concerning the range, distribution, and population size of the *Oxyloma* genus, *Oxyloma haydeni*, or any subspecies of *Oxyloma haydeni*.

(4) Comments regarding our decision to move forward with removing Kanab ambersnail from the List of Threatened and Endangered Species without resolution on what larger taxonomic entity it belongs to.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, may not meet the standard of information required by section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), which directs that determinations as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

Prior to issuing a final determination on this proposed action, we will take into consideration all comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal. All comments and information we collect, including commenters’ names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. If you submit your comments electronically, you must submit your comments on [http://](http://www.regulations.gov)

www.regulations.gov before 11:59 p.m. (Eastern Time) on the date specified in **DATES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. Please note that comments posted to this website are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-deliver hardcopy comments that include personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. We must receive requests for a public hearing, in writing, by the date specified above in **DATES**. You must send your request to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodation, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our policy, “Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities,” which was published on July 1, 1994 (59 FR 34270) and our August 22, 2016, Memorandum “Peer Review Process,” we will seek the expert opinion of at least three appropriate and independent specialists

regarding scientific data and interpretations contained in this proposed rule. The purpose of peer review is to ensure that our delisting decision is based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions in this proposed delisting of the Kanab ambersnail. We will summarize the opinions of these reviewers in the final decision document, and we will consider their input and any additional information we received as part of our process of making a final decision on this proposal. Such communication may lead to a final decision that differs from this proposal.

Previous Federal Actions

On May 22, 1984, we published a notice of review in the **Federal Register** (49 FR 21664) issuing a list of invertebrate wildlife being considered for listing as endangered or threatened species, which included the Kanab ambersnail as a category 2 species. Category 2 species were taxa for which the Service had information indicating the appropriateness of a proposal to list the species as endangered or threatened but for which more substantial data were needed on biological vulnerability and threats. On January 6, 1989, we published an updated notice of review, which maintained the Kanab ambersnail as a category 2 species (54 FR 554). At the time, only two populations of the Kanab ambersnail were known to occur, in Utah. A third population was discovered in Arizona in 1991 (57 FR 13657; April 17, 1992).

A survey conducted in 1990 discovered that one Utah population of the Kanab ambersnail was nearly extirpated, while the other Utah population was subjected to major habitat alteration and destruction (Clarke 1991, p. 31). We considered this information as sufficient to elevate the Kanab ambersnail from a category 2 to a category 1 species, and on August 8, 1991, we published an emergency rule to list the Kanab ambersnail as endangered (56 FR 37668). This emergency protection expired on April 3, 1992 (56 FR 37668; August 8, 1991).

On November 15, 1991, we proposed to list the Kanab ambersnail as an endangered species (56 FR 58020). On April 17, 1992, we published a final rule listing the Kanab ambersnail as an endangered species (57 FR 13657). We did not designate critical habitat for the

Kanab ambersnail as explained in our April 17, 1992, final rule (57 FR 13657), due to a danger of over-collection or molestation. On October 12, 1995, we finalized the Kanab ambersnail recovery plan (Service 1995, entire).

We completed a 5-year review of the species' status in July 2011 (Service 2011, entire). In the 5-year review, we analyzed existing data and threats to the species, and concluded the Kanab ambersnail should remain an endangered species (Service 2011, p. 21). This decision was based on the fact that the threats to the Kanab ambersnail and its distribution have changed minimally since it was first listed (Service 2011, p. 21). As of the 5-year review, several genetic studies indicated that at least one of the three populations identified as Kanab ambersnail was potentially part of a different species or subspecies, but we did not consider those studies certain enough to recommend delisting due to error at that time (Miller *et al.* 2000, p. 8; Stevens *et al.* 2000, p. 7; Culver *et al.* 2007, p. 3; Service 2011, pp. 8–9). The subsequent publication of a larger, more comprehensive study on the genetics of Kanab ambersnail and the *Oxyloma* genus (Culver *et al.* 2013, entire), coupled with the previous genetic research, is considered in this proposed rule determination.

Species Description and Habitat Information

It is our intent to discuss only those topics directly related to delisting Kanab ambersnail in this proposed rule. For more information on the description, biology, ecology, and habitat of Kanab ambersnail, please refer to the final listing rule published in the **Federal Register** on April 17, 1992 (57 FR 13657); the most recent 5-year review for Kanab ambersnail completed in July 2011 (Service 2011); and the Kanab ambersnail recovery plan (Service 1995). These documents are available as supporting materials on <http://www.regulations.gov> under Docket No. FWS–R6–ES–2019–0055.

The Kanab ambersnail (*Oxyloma haydeni kanabensis*), as currently taxonomically identified, is a terrestrial snail in the family Succineidae. Succineids are usually referred to as ambersnails due to their mottled grayish-amber to yellowish-amber colored shells (Sorensen and Nelson 2002, p. 5).

The Kanab ambersnail typically inhabits marshes and other wetlands watered by springs and seeps at the base of sandstone or limestone cliffs (Clarke 1991, pp. 28–29; Spamer and Bogan 1993, p. 296; Meretsky *et al.* 2002, p.

309). Habitat vegetation can consist of cattail (*Typha domingensis*), sedge (*Juncus* spp.), native crimson monkeyflower (*Mimulus cardinalis*), watercress (*Nasturtium officinale*), native water sedge (*Carex aquatilis*), and maidenhair ferns (*Adiantum capillus-veneris*) (57 FR 13657, April 17, 1992; Stevens *et al.* 1997, p. 6; Sorensen 2005, p. 3). The Kanab ambersnail often inhabits dead and decaying litter and live stems of plants (Service 2011, p. 11).

When Kanab ambersnail was listed, we knew of two populations in Utah (Three Lakes and Kanab Creek Canyon) and one population in Arizona (Vasey's Paradise) (57 FR 13657, April 17, 1992). The Kanab Creek Canyon population in Utah was extirpated by 1991, after dewatering of the seep for livestock use severely reduced the available habitat. Kanab ambersnail was last found there in 1990, when three individuals were identified (Service 2011, p. 12). Currently, there are two naturally occurring populations of Kanab ambersnail (Vasey's Paradise in Arizona, and Three Lakes in Utah) and one introduced population (Upper Elves Canyon in Arizona) (Service 2011, p. 6).

The Vasey's Paradise population was discovered in 1991 (Spamer and Bogan 1993, p. 47). Vasey's Paradise is a riverside spring located approximately 33 miles (mi) (53 kilometers (km)) downstream of Lee's Ferry on the Colorado River, in Grand Canyon National Park, Arizona (Spamer and Bogan 1993, p. 37). Occupied and potential habitat at Vasey's Paradise is 9,041 square feet (ft²) (840 square meters (m²)) (Service 1995, p. ii). Available habitat has increased since the time of listing due to water management practices in the Grand Canyon. The population is protected by National Park Service regulations and the presence of poison ivy, which deters visitors (Stevens *et al.* 1997, p. 12; Sorensen 2016, pers. comm.). A survey in 2016 found only one snail, but search conditions were difficult and time was limited (Sorensen 2016, pers. comm.). Fourteen individuals were collected in 2008, for genetic analysis (Culver *et al.* 2013, p. 7). The most recent population estimate is from 2002, which estimated 3,124 individuals and noted that population numbers could be highly variable from year to year (Gloss *et al.* 2005, p. 3).

The Three Lakes population is a series of small ponds on private land approximately 6 mi (10 km) northwest of Kanab, Utah (Clarke 1991, p. 28; Service 1995, p. 3). Occupied and potential habitat is approximately 4.94 acres (ac) (2 hectares (ha)) (Service 1995,

p. 3). Available habitat is wet meadow and marsh. The habitat was greatly reduced in size and population beginning in 1991, due to preparations for anticipated development, which resulted in the original emergency listing (Service 2011, p. 11). The development anticipated at the time of listing has not occurred, and snails were found there in 2008 (Culver *et al.* 2013, p. 6) and in 2016 (Sorensen 2016, pers. comm.). In 2016, the land was sold to Best Friends Animal Sanctuary, which has expressed a willingness to preserve the habitat (Sorensen 2016, pers. comm.). No recent population estimate is available.

Upper Elves Canyon is located approximately 83 mi (134 km) downstream of Vasey's Paradise on the Colorado River, in Grand Canyon National Park, Arizona (Sorensen 2016, p. 1). Occupied and potential habitat is adjacent to a perennial seep and is 1,068 ft² (99.2 m²) (Sorensen 2005, p. 3). This population is protected by National Park Service regulations, as well as by its inaccessibility (Service 2011, p. 7). This population was established by the Arizona Fish and Game Department between 1998 and 2002, and as of 2005 was considered self-sustaining with an estimated population of approximately 700 individuals (Sorensen 2005, p. 9).

Taxonomy

Kanab ambersnail was first collected in 1909, by James Ferriss from an area called "The Greens," a vegetated seep approximately 6 mi (10 km) north of Kanab in Kanab Creek Canyon, Utah (57 FR 13657, April 17, 1992; Service 1995, p. 2). However, the Kanab ambersnail has not been found at its type locality since 1991 (Meretsky *et al.* 2002, p. 314; Culver *et al.* 2013, p. 6).

The snails collected by James Ferriss in 1909 were initially placed in the species *Succinea hawkinsi*, but Pilsbry (1948, p. 797) placed them in *Oxyloma* and created the subspecies *kanabensis* under the species *haydeni* (57 FR 13657, April 17, 1992). The subspecies *kanabensis* classification was considered to be temporary at the time, and the author recommended that the taxonomic status be reconsidered in the future (Pilsbry 1948, p. 798; Clarke 1991, p. 23; 57 FR 13657, April 17, 1992).

We have assessed all available genetic information for Kanab ambersnail (Miller *et al.* 2000, entire; Stevens *et al.* 2000, entire; Culver *et al.* 2013, entire). Since the listing of Kanab ambersnail in 1992 (57 FR 13657; April 17, 1992) and the publication of the Kanab ambersnail recovery plan in 1995 (Service 1995, entire), several studies on subspecies

distribution, morphological characteristics, and genetic relationships to other *Oxyloma* species have been completed. We briefly describe these studies below. At this time, these studies represent the best scientific information available in order for us to analyze the Kanab ambersnail's distribution and taxonomic changes.

There are various types of analyses that can be done to determine genetic structure of a species: (1) Mitochondrial DNA, which is rapidly evolving and useful to determine recent populations; (2) nuclear microsatellite DNA, which has high amounts of polymorphism and can be used to look at populations within a species; (3) nuclear DNA, which is inherited paternally (unlike mitochondrial DNA, which is inherited maternally); and (4) amplified fragment length polymorphisms (ALFP), which are used to sample multiple loci across the genome.

Miller *et al.* (2000) used ALFP to determine intra- and inter-population genetic information for four *Oxyloma* species in Utah and Arizona. Among these, two Niobrara ambersnail (*Oxyloma haydeni haydeni*) locations were studied at Indian Gardens (Arizona) and Minus Nine Mile Spring (Arizona), and two Kanab ambersnail populations were studied at Three Lakes (Utah) and Vasey's Paradise (Arizona) (Miller *et al.* 2000, pp. 1845–1946). From this study, the Kanab ambersnail population at Three Lakes appears more closely related to the Niobrara ambersnail population at Indian Garden than to the Kanab ambersnail population at Vasey's Paradise (Miller *et al.* 2000, p. 1852).

Stevens *et al.* (2000) used mitochondrial DNA and morphological analysis to distinguish Succineidae (*Oxyloma*, *Catinella*, and *Succinea*) populations in the United States and Canada. The authors collected over 450 samples from seven U.S. States and Canadian provinces, including from 63 different populations or locations of snails (Stevens *et al.* 2000, p. 4). Determining *Oxyloma* species based on morphology was shown to be inaccurate (Stevens *et al.* 2000, pp. 4–5, 42). Vasey's Paradise did not cluster with another Kanab ambersnail population or the two sampled Niobrara ambersnail populations, leading the authors to suggest Vasey's Paradise might represent a unique species (Stevens *et al.* 2000, p. 41). However, a later, more comprehensive study found that Vasey's Paradise clustered closely enough with samples from other surrounding *Oxyloma* populations for them all to be considered the same *Oxyloma* species (Culver *et al.* 2013, p. 57).

In the most recent and detailed peer-reviewed study, ambersnails were collected from 12 locations in Arizona and Utah, with each location providing at least 14 ambersnail specimens (Culver *et al.* 2013, p. 5). Samples consisted of Kanab ambersnail, Niobrara ambersnail, blunt ambersnail (*Oxyloma retusum*), undescribed species of *Oxyloma*, and *Catinella* (used to provide an outgroup comparison) (Culver *et al.* 2013, p. 6). Between the *Oxyloma* populations, shell morphology did not have the variation usually associated with different species, leading the authors to suggest that none of the populations sampled was reproductively isolated (Culver *et al.* 2013, p. 52). Genetic results suggested that there was gene flow among all the populations sampled, most likely due to short- or long-term dispersals from other populations (Culver *et al.* 2013, p. 57). Additionally, Kanab ambersnail samples from Vasey's Paradise did not cluster with the other two Kanab ambersnail populations (Culver *et al.* 2013, pp. 51, 55). The authors concluded that the three populations of Kanab ambersnail are not a valid subspecies of *Oxyloma haydeni* and should instead be considered part of the same taxa as ambersnails from the eight other populations of *Oxyloma* in Utah and Arizona that were sampled for comparison (Culver *et al.* 2013, entire). This study declined to positively identify a species-level taxon for these 11 populations of ambersnail, due to lack of genetic information on the genus (Culver *et al.* 2013). The primary author stated later that her expert opinion was they should all, including those previously identified as Kanab ambersnail, be considered Niobrara ambersnail (*Oxyloma hadenyi*) (Culver 2016, pers. comm.). The authors suggested that specimens from the type locality of the Niobrara ambersnail in Nebraska could be examined for comparison to verify this conclusion (Franzen 1964, p. 73; Culver *et al.* 2013, p. 57; Culver 2016, pers. comm.).

For the Kanab ambersnail to be considered a distinct subspecies, nuclear and mitochondrial DNA tests should show that the three populations cluster together when compared to other populations of ambersnails (Culver *et al.* 2013, p. 55). However, the Vasey's Paradise population does not cluster with the other two Kanab ambersnail populations, but the degree of variation shown in Vasey's Paradise from the other populations was not unique enough to constitute a subspecies on its own, as it shares markers with several nearby populations of non-listed

Oxyloma snails (Stevens *et al.* 2000, p. 41; Culver *et al.* 2013, p. 55–57).

The genetic uniqueness in Vasey's Paradise may be attributable to flooding, which can erode away ideal vegetation or habitat, leaving only a few individuals able to survive and re-establish the population at that site, creating a genetic bottleneck. Genetic diversity at these types of sites will be lower than at sites that have experienced short- or long-distance dispersals (Culver *et al.* 2013, p. 55). Furthermore, ambersnails have the ability to self-reproduce, allowing for colonization of new areas by only one individual, which may explain how many genetically distinct populations developed in a short time period (Culver *et al.* 2013, p. 56). At least one bottleneck event in the past, possibly flooding, caused unusual population genetic events (Culver *et al.* 2013, p. 55).

Overall, these studies show that shell morphology and anatomical characteristics that were once considered diagnostic do not reliably correspond with the results from genetic analyses of Succineidae snails (Hoagland and Davis 1987, p. 519; Pigati *et al.* 2010, p. 523). Samples originally identified as different species or subspecies based on physical differences are consistently found to be related closely enough to qualify as members of the same species based on genetic studies (Culver *et al.* 2013, entire; Miller *et al.* 2000, entire; Stevens *et al.* 2000, entire). Traditionally, shell morphology of Kanab ambersnail, such as its slender and drawn out spire and short shell aperture, was used to distinguish Kanab ambersnail from other members of *Oxyloma* (Pilsbry 1948, pp. 797–798). However, shell shape can vary as much within a population as within a species (Hoagland and Davis 1987, p. 519). Therefore, it is important to consider other factors such as genetics, anatomy, and habitat to determine a species within *Oxyloma* (Hoagland and Davis 1987, p. 519; Sorensen and Nelson 2002, p. 5).

In addition to shell morphology, reproductive anatomy (phallus shape) was previously a main determining factor of the *Oxyloma* genus (Miller *et al.* 2000, p. 1853). However, anatomical descriptions used to classify the Kanab ambersnail had no quantifying factors, such a prostate gland length, and soft tissues were difficult to measure objectively (Pilsbry 1948, p. 798; Culver *et al.* 2013, pp. 52–53). The reproductive system is the most susceptible among organ systems to selection pressure (Franzen 1963, p. 84). Overall, anatomical characteristics have

been found to vary greatly within *Oxyloma* (Culver *et al.* 2013, p. 52).

There have been at least two instances when a species of snail was placed in the wrong genus due to relying solely on the reproductive anatomy (Johnson *et al.* 1986, p. 105; Miller *et al.* 2000, p. 1853). In another case, variation in anatomical structure was found in blunt ambersnail, leading the authors to conclude that the species was not restricted geographically as initially believed (Franzen 1963, p. 94). Previous *Oxyloma* studies have used only one or two specimens to determine the species' taxonomic status, which makes it difficult to properly assess the true status (Hoagland and Davis 1987, p. 515).

Standards for quantifying anatomy are minimal and not descriptive enough, with words such as small, medium, and large being used, which are vague and not measurable (Hoagland and Davis 1987, p. 478). Anatomical characteristics should not be the only factor to determine a species within *Oxyloma*, even with an understanding of the individual and geographical variation (Franzen 1963, p. 83). Variation between populations, anatomical differences among individuals, overlapping habitat, and minimal consistency with the anatomical features make it difficult to rely on anatomical descriptions to determine species classification (Franzen 1964, p. 80; Sorensen and Nelson 2002, pp. 4–5). Overall, reproductive anatomy is likely not a good species indicator in snails; instead, genetic relationships provide the most reliable method of classifying taxa.

In summary, these analyses present multiple interpretations of the taxonomy of Kanab ambersnail, none of which correlates to that of our original listing. Although the exact taxonomy of the genus *Oxyloma* and its constituent species remains uncertain, it is clear that the populations designated as Kanab ambersnail do not make up, together or separately, a valid subspecies. The 1992 final listing rule for the Kanab ambersnail (57 FR 13657; April 17, 1992) relied on the best available information at the time, and only included snails found in Vasey's Paradise in Arizona, and Three Lakes and Kanab Creek in Utah. This has changed with the addition of the 2013 genetic study of the *Oxyloma* genus in Utah and Arizona (Culver *et al.* 2013, entire).

The various published and unpublished genetics reports described above offer different conclusions about how Succineid snails should be classified, particularly within the genus

Oxyloma. However, none of the genetic studies provides support for *Oxyloma haydeni kanabensis* as a valid subspecies. Additionally, available genetic evidence suggests that at least one population identified as Kanab ambersnail is more closely related to other nearby *Oxyloma* populations than it is to the other two Kanab ambersnail populations.

Therefore, we are proposing to delist Kanab ambersnail based on the best available science. The currently listed entity for the Kanab ambersnail, restricted to Vasey's Paradise and Upper Elves Canyon, Arizona, and Three Lakes, Utah, is not a valid taxonomic subspecies. We are unable to evaluate the populations identified as Kanab ambersnail relative to the larger entity because the larger entity has not yet been defined. If we had conclusive information available about the taxonomy of this genus, we would conduct a status assessment of the larger entity, but in this case we do not have enough information to conduct that analysis. We do not consider the absence of information on the larger taxonomy of a group to be sufficient reason to keep an invalid subspecies listed as Threatened.

Delisting Proposal

Section 4 of the Act and its implementing regulations, 50 CFR part 424, set forth the procedures for listing, reclassifying, or removing species from the Federal Lists of Endangered and Threatened Wildlife and Plants. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; or (3) the original scientific data used at the time the species was classified were in error.

For the Kanab ambersnail, we conclude that the existing scientific information demonstrates that *Oxyloma haydeni kanabensis* does not represent a valid taxonomic entity and, therefore, does not meet the definition of "species" as defined in section 3(16) of the Act. Therefore, *Oxyloma haydeni kanabensis* no longer warrants listing under the Act. The Kanab ambersnail does not require a post-delisting monitoring (PDM) plan because the

monitoring plan does not apply to delisting species due to taxonomic error.

Effects of This Proposed Rule

This proposal, if made final, would revise 50 CFR 17.11(h) to remove the Kanab ambersnail from the Federal List of Endangered and Threatened Wildlife. Because no critical habitat was ever designated for this subspecies, this rule would not affect 50 CFR 17.95.

The prohibitions and conservation measures provided by the Act would no longer apply to the Kanab ambersnail. Interstate commerce, import, and export of the Kanab ambersnail would not be prohibited under the Act. In addition, Federal agencies are no longer required to consult under section 7 of the Act on actions that may affect the Kanab ambersnail.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994,

Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

The populations listed as Kanab ambersnail do not occur on Tribal land. We have determined that while no Tribes would be directly affected by this proposed action, any delisting that may occur, may result in changes to the flow regime for the Colorado River in and adjacent to the Grand Canyon. Several Tribes have an historic affiliation with

the Grand Canyon and could be affected by flow changes, should they occur. The potentially impacted Tribes are the Chemehuevi, the Colorado River Indian Tribes, the Hualapai, the Hopi, the Kaibab Band of Paiute, the San Carlos Apache, the San Juan Southern Paiute, the Navajo, and the Zuni. These Tribes have been informed of the proposed delisting.

References Cited

A complete list of all references cited in this proposed rule is available at <http://www.regulations.gov> at Docket No. FWS-R6-ES-2019-0055, or upon request from the Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of the Service's Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry for “Ambersnail, Kanab” under SNAILS from the List of Endangered and Threatened Wildlife.

Dated: December 10, 2019.

Margaret Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2019–28352 Filed 1–3–20; 8:45 am]

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