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Brook Floater Mussel/Endangered Species Act: U.S. Fish and Wildlife Service and Center for Biological Diversity Enter into Settlement Agreement Requiring Listing Reevaluation

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The United States Fish and Wildlife Service (“Service”) and the Center for Biological Diversity (“CBD”) entered into a February 13th Stipulated Settlement Agreement (“Agreement”) addressing the brook floater mussel. See Case No. 1:25-cv-1168-DLF (U.S. District Court for the District of Columbia).

The Service has agreed to reevaluate Endangered Species Act (“ESA”) protections for the species.

The Service received a petition in 2010 from CBD requesting that it list the Brook Floater Mussel as a threatened or endangered species under the ESA. The Service is stated to have published a finding in 2011 that the petition presented substantial scientific or commercial information indicating that listing the Brook Floater Mussel may be warranted. See 76 Fed. Reg. 59,836. However, in 2019 the Service issued a finding (i.e., 12-month finding) in which it concluded that listing the Brook Floater Mussel was not warranted. See 84 Fed. Reg. 41,694.

CBD in 2025 stated its intent to file suit for alleged violations of the ESA. The organization subsequently filed suit in the United States District Court for the District of Columbia challenging the 2019 non-warranted finding.

The February 13th Agreement requires that on or before August 30, 2029, the Service will submit to the Office of the Federal Register a new 12-month finding as to whether listing the Brook Floater Mussel as a threatened or endangered species is (a) not warranted; (b) warranted; or (c) warranted but precluded by other pending proposals.

A copy of the Agreement can be found [here](#).